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# JOURNAL *of* LIBERTY *and* INTERNATIONAL AFFAIRS

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# GEOPOLITICAL PERSPECTIVE OF
# THE RUSSIAN FEDERATION AND BRZEZINSKI'S
# READINGS OF THE UKRAINIAN CRISIS

## Srđan Orlandić

*PhD candidate at the Faculty of Social Sciences, University of Ljubljana*, Slovenia
orlandic92[at]gmail.com

*Abstract: From November 2013 to the present day the Ukrainian crisis generated the most severe conflict in Europe since the 1990s, while current skirmishes in the eastern part of the country and recent new developments have the potential to further tighten the crisis. Notwithstanding the internal elements of the ongoing crisis, this paper will be focused on the analysis of its external - geopolitical – dimension. By acquiring conceptual framework from Zbigniew Brzezinski's writings on geopolitics, this article will analyze the Ukrainian crisis in terms of strategic, economic and ideological interests of the Russian Federation.*

*Keywords: Ukraine; Russia; Brzezinski; Geopolitics*

## INTRODUCTION

A triumph and proclaimed ascendancy of liberal democracy and capitalism that was dominant in the Western intellectual and academic circles following the end of the Cold War was swiftly faced with the reality of non-resolved ethno-national and territorial disputes in Europe, which was primarily evident in conflicts in the former Yugoslavia during the 1990s. In the upcoming two decades different countries politically, economically, military, technologically and ideologically challenged the unipolar global order and the United States hegemony, with various battlefronts of different scale and nature emerging over the Europe. More recent crisis and conflict on the territory of Ukraine, triggered by the decision of pro-Russian President Viktor Yanukovych to halt

process of deepening and determining relations with the European Union (EU) and subsequent Euromaidan protests in November 2013, represent the bloodiest conflict on the European soil since the Yugoslav wars in the last decade of XX century.

The course of events in Ukraine developed progressively – Russia annexed Crimea (strategically important peninsula on the northern coast of the Black Sea), which was an impetus for introducing sanctions by the EU, the US and other countries; conflict moved to eastern part of the country where the self-proclaimed Novorossiya was established; two accords were brokered by the Normandy contact group, however the peace was not achieved; while at the heart of argument of the ferocity of conflict are more than 10,000 causalities, including 3,000 civilians, as well as more than 1.7 million displaced people (Coman 2017). Moreover, due to the ongoing conflict in Ukraine and strained relations with Russia, the North Atlantic Treaty Organization (NATO) deployed the new four battalions to the Eastern Europe in order to strengthen the so-called Eastern flank.

Going towards the sixth year of the crisis with the sporadic skirmishes in the Eastern Ukraine, three new potential threats is on the horizon that can further complicate already fragile state of affairs. The first one is the most recent crisis from November 2018 when Russian forces shot at and seized three Ukrainian vessels and injured six people. This incident directly reflects Russian annexation of Crimea in 2014, since the Ukrainian vessels were planning to go through the Kerch Strait that was controlled by Ukraine - on the side of Crimea - and Russia - on the side of Taman Peninsula - before the beginning of conflict. As a result Ukrainian President Petro Poroshenko declared 30 days of martial law in border areas.

Secondly, the incumbent Ukrainian President in 2017 announced the intention to hold a referendum on Ukrainian membership to NATO (DuVall 2018). Moreover, in June 2017 Verkhovna Rada adopted a bill that recognizes NATO integration as a foreign policy priority (Alexe 2018). More recently, Poroshenko informed the public on 10 March 2018 via his official Facebook profile that he sent a letter to NATO Secretary General, referring to Article 10 of the North Atlantic Treaty, where he "officially [set out] Ukraine's aspirations to become a member of the Alliance", thus adding that Kyiv is seeking a Membership Action Plan (MAP) (Radio Free Europe 2018). This Ukrainian pursuit of the MAP evokes the context and discussion before and during the Bucharest summit in 2008, when NATO was considering to offers the MAP to Ukraine and Georgia, which had a strong backing from the US and President Bush. Thus, a new question comes to the surface – will Ukrainian integration processes again fuel the internal turmoil in society and generate additional tensions in the international community. The third threat comes from religious domain and given signals that Constantinople Patriarchy will recognize the Ukrainian Orthodox Church as independent. Ongoing crisis in Ukraine has internal and external dimensions - former has roots in historical trends, issue of ethnic groups and minorities, as well as in overarching political and socio-economic problems.

On the other hand, particularly important in the analysis of the Ukrainian crisis are impacts of external factors that are predominantly geopolitical in nature. Thus, the Ukrainian strategic geographic position, energy resources, significance as a transit country for energy, along with its importance for relations between Russia and the West, are implying that the crisis contains a geopolitical logic that has to be thoroughly addressed. Further, I would argue that disclosing the geopolitical paradigm of the Ukrainian crisis in the perspective of Russian interests represents a necessary instrument in order to comprehend core rationale and motives behind it. Therefore, this article will focus and elaborate on the Kremlin's geopolitical interests, which will be segmented and analyzed in terms of strategic, economic and ideological interests.

## *Brzezinski's geopolitical lenses in terms of Eurasia and Ukraine*

In order to develop and elaborate on the argument that the Ukrainian crisis has inner geopolitical element, it is necessary to provide a conceptual working definition of geopolitics. The mere term geopolitics coined Swedish legal jurist Radolf Kjellen in 1899 and it represents a multidisciplinary method of observing foreign policy, including an observation of political geography, international relations, international law, etc. (Marklund 2014). In developing a conceptual framework for grasping the external dimension of the Ukrainian crisis I will briefly, due to the envisaged scope of the paper, build upon the writings of Zbigniew Brzezinski, former National Security Advisor to the US President and a realist scholar particularly interested in geopolitics. Brzezinski's vision and understanding of the geopolitics was predominantly organized in terms of foreign policy instrumentalization. His arguments were developed on the basis of Mackinder's Heartland theory, however within the perspective of the US national and geopolitical interests. Brzezinski was not alone in leaning severely on Mackinder's paradigms (Sabet 2015). Even Henry Kissinger, a prominent figure of US foreign policy in the Cold War era and former Secretary of State and National Security Advisor, emphasized the importance of Russia in terms of its position astride the Mackinder's geopolitical Heartland (Sempa 2009). Brzezinski revived Mackinder's Heartland theory in context of the Cold War by arguing that Eurasia represents a pivotal area for the future of international politics and geopolitical aspirations of global powers (Knutsen 2014). He developed an argument that "whoever controls Eurasia dominates the globe", and through the vision of US foreign policy warned "if the Soviet Union captures the peripheries of this landmass, it would not only win control of vast human, economic and military resources but also gain access to the geostrategic approaches to the Western Hemisphere – the Atlantic and the Pacific" (Brzezinski 1998, 111).

The bedrock of US strategic and ideological imperative to sustain influence in Eurasia in Brzezinski's writings is in accordance with the imperative to preserve leading global geopolitical position.

He recognized (1998, 30) the Eurasia as "the chief geopolitical prize" for America, given that its "global primacy is directly dependent on how long and how effectively its preponderance on the Eurasian continent is sustained." Therefore, Eurasia is placed at the centrum of American geopolitical strategic interests, since Brzezinski believed that global affairs were always dominated by the relations within this particular region. Thus, he emphasized that the US fundamental geopolitical interest is to prevent the emerging of any more influential or even dominant power in Eurasia. Brzezinski was particularly interested in the geopolitical significance of Ukraine that derives from its vital geostrategic point between Europe and Asia (Balmaceda 2004). Thus, he emphasized that Ukraine represents a substantial actor for ensuring the ascendancy within the Eurasian region. Furthermore, Brzezinski recognized the Ukrainian important role in the geopolitical game on the 'Eurasian chessboard' since he argued that Russia without Ukraine ceases to be 'Eurasian empire' and would have become a predominantly Asian imperial state (Rifenbary 2014). In addition, Brzezinski (1998, 46) stated that if Russia restores control over Ukraine, with its around 45 million people, major resources and access to the Black Sea, then "Russia automatically again regains the wherewithal to become a powerful imperial state, spanning Europe and Asia." Therefore, without Ukraine, Russia's strategic geopolitical objectives and a tendency for the regional hegemony, based on the Commonwealth of Independent States (CIS) or the Eurasia platform, are not likely to be achieved (Balmaceda 2004). In terms of geopolitical realm Brzezinski, on the grounds of Mackinder's theory, distinctly indicated the resounding importance of Ukraine for the clash of great powers' interests in Eurasia, which was genuinely confirmed with their involvement and the intensity of the crisis. Hence, in order to understand the substance of this subject matter, it is important to determine and present geopolitical incentives of external actor that had the most prominent impact on the Ukrainian crisis.

## Russian geopolitical perspective and interests

The Kremlin's geopolitical motives regarding Ukraine are broad, complex, inter-connected and historically rooted. With the decision to take over Crimea, the Kremlin has genuinely progressed from soft to hard power with the aim to secure its geopolitical objectives in the naval bases in Sevastopol and surroundings (Gotz 2015). Hence, I would argue that Russia's first direct geopolitical move related to the Ukrainian crisis reflected its principal strategic interest. The annexation of Crimea, along with the overarching impact in Abkhazia, enabled Russian effective control over the substantial part of the Black Sea, particularly the Kerch Strait and the Sea of Azov, which was always considered as a strategically vital area (Chossudovsky 2014). The broader community became aware of the importance of this area due to the recent naval crisis from November 2018, which has a severe potential for escalation of conflict. In addition, one

has to keep in mind that Russia obtained roughly 36,000 miles of territory around Crimea, establishing the maritime borders with Romania and Turkey (Biersack and O'Lear 2014).



Figure 1. Crimean geostrategic position

It has to be particularly acknowledged that one of the core Russia's interest related to the annexation of Crimea was to protect the most important naval assets – the Black Sea Fleet, based outside of Sevastopol and with a smaller facility in Novorossiisk, Russia (Tsygankov 2015). Ukraine and Russia formally divided, after years of negotiations, the Soviet Black Sea fleet by signing a Treaty in 1997, with which the Russian Black Sea Fleet obtained basing rights in Crimea until 2017 (Charap and Darden 2014). Regulation of the Black Sea Fleet was perceived as a major incentive for the bilateral tensions between Russia and Ukraine in that period. Furthermore, in 2010 two states signed the Kharkiv Accords in order to extend the Russian Black Sea Fleet presence in Crimea until 2042 (Sharples and Judge 2014). The Kharkiv Accords defined that Russia will be paying decreased rent to Ukraine for the Black Sea Fleet's bases in return for the discount on natural gas consumption. With that arrangement, Ukraine's political and economic dependency on Russian energy resources was additionally strengthened (Sherr 2010).

However, it has to be underlined that the Black Sea Fleet's significance, as a specific geopolitical interest of Russia, is not within its prominent military power. Namely, the Fleet is composed of 40 active duty combat ships a number of seaworthy vessels, which are supplemented by a variety of sea and land units around the Crimean peninsula (Gorenburg 2014). Rather, it is valuable because it secures access to the Black Sea, along with the historical (since the late XVIII century) and regional importance of its presence. Yet, Russia has stated that it will increase its naval military units in Crimea with a new ship and submarine construction, since it does not have obligations under the treaties that have regulated this issue before, which limited the number of troops and military hardware in the peninsula in the past (Socor 2014).

Other important benefits that Russia acquired from the annexation of Crimea and its maritime territory are energy supplies that are beneath the Black Sea (Biersack and O'Lear 2014). Namely, some experts are claiming that Russia gained much of Ukrainian oil and gas reserves that are located in the Black Sea (Stulberg 2015). Also, it has been indicated that in the Black Sea there are considerably large resources of hydrocarbon, and the Ukrainian company responsible for the Black Sea's energy potentials, Chornomornaftogaz, was nationalized by the Crimean separatists swiftly after the annexation (Biersack and O'Lear 2014). Furthermore, after the referendum in Crimea and its integration into Russia, Chornomornaftogaz began to function under the auspices of the Russian Gazprom (Socor 2014). Because of the seizure of military facilities and oil and gas potentials, officials in Kiev estimated that Ukraine will have, in near future, a significant financial loss amounting to 300 billion dollars, including their assessment of around 2.3 million tons of oil equivalent (Daly 2014).

In the context of strategic interest, one should not forget Moscow's interest regarding the defense area, i.e. aerospace and defense industry of Ukraine. Even though share of Ukrainian exports in Russia's total military imports are between 2 and 4%, the Russian defense industry would suffer a great shortage of substantial components without Ukrainian products (Larrabee *et al.* 2015). In the period from 2009 to 2013 Russia was the third-largest consumer of products of the Ukrainian defense industry, and some parts and services Russia is importing only from Ukraine. For instance, particular segments of the Russian military is heavily dependent on products from Ukraine – helicopter engines (Motor Sich in the southeastern Ukrainian city of Zaporizhia); transport planes (Antonov plant in Kiev); more than half of the components of Russia's ground-based intercontinental ballistic missile force come from Ukraine; a Ukrainian state-owned aerospace manufacturer Yuzhmash designs, manufactures and services rockets and missiles, which is also of pivotal importance for Russia (McLees and Rumer 2014). Furthermore, it is estimated that around 30% of Ukraine's defense-related products in Russia could not be replaced by its domestic production (Larrabee *et al.* 2015). Hence, for Moscow that would mean additional investments in the defense sector, which would further impact already fragile economic situation.

On the other hand, bilateral relations of Ukraine and Russia in terms of economy are still under the solid influence of their common Soviet history since the two countries have developed close ties over the years with a common market of goods (Charap and Darden 2014). One can argue that the Kremlin strongly advocated halting the EU-Ukraine Association Agreement (AA), since it would have multiple negative effects on the Russian market, due to the fact that many Russian goods are not in accordance with the EU safety conditions and technical requirements (Gotz 2015).

More important segment of Russia's economic interest in Ukraine is related to the energy sector and it is of profound geopolitical importance. Namely, Ukraine is the key transit country for transport of natural gas to Europe from Russia and Central Asia, while around 80% of Europe's gas imports from Russia go through Ukrainian pipelines (Cohen and Graham 2009). From those arrangements, Gazprom acquires two-thirds of its profit from gas that goes through this energy corridor. It has to be understood that Ukraine is also heavily double-dependent on Russia's energy – a consumption of natural gas from the Russian producers, as well as earning most of its foreign income from providing the services for the unobstructed transit of energy (Braithwaite 2014). In the context of Russian energy policy, Gazprom was halting gas supplies several times over the last years (winters of 2005-2006, 2007-2008 and 2008-2009), which affected not just Ukrainian, but also energy policy of countries of Western Europe.

Exploitation of energy dependence is widely recognized as one of Russia's foreign policy instruments, thus energy resources are used to accomplish not only economic objectives, but security and political ones as well. Energy policy allows Russia to exercise power beyond its borders and to influence the policies of other countries that are dependent on its supplies. Hence, the Kremlin has the possibility to coerce countries that hinder its foreign policy objectives – for instance, in 2002 Russia cut oil deliveries to Lithuania and Latvia after two countries prevented Moscow from purchasing major energy holdings (Weitz 2014). The energy potential of Russia was also an indispensable part of relations with Ukraine, which, for example, could be viewed in a deal from 2010 to extend the Russian Black Sea Fleet on Ukrainian territory for 25 more years, while in return it would obtain the reduction of gas prices by 30%.

Figure 2. Ukrainian energy significance

A permanent intention of the Kremlin was to have control of the pipelines that go through Ukraine. Therefore, Russia put Ukrainian authorities under pressure to accept the joint ownership of Naftogaz, Ukrainian state-controlled gas company. Konstantin Kosachyev, Chairman of the International Affairs Committee of the Russian Parliament, summarized this issue plainly: "The idea was for Ukraine and Russia to become a single transit space between Europe and China, between European and Asian markets" (Wegren 2013). Thus, one has to comprehend that Ukraine, as an energy transit country, is of paramount geopolitical importance for Russia - its economy and businesses, as well as in terms of foreign policy instrumentalization.

When it comes to the ideological component, one element has been often used for purposes of building public approval regarding geopolitical activities concerning Ukraine. Namely, the monumental part of Russian tradition and history is located in the capital of Ukraine - the cradle of the Russian civilization is the medieval state of the Kievan Rus, a federation of Slavic principalities on the soil of today's Ukraine (Gotz 2015).

Also, it represents a sacred place for many Russians since the origins of the Russian Orthodox Church derive from the medieval Kievan Rus, where Christianity was accepted in 988, which became the cradle and foundation of today's modern nation-state. Furthermore, after the Ukrainian independence, Russia lost a number of sites with a great historical value, including the first Orthodox monastery and graves of legendary medieval knights. President Putin underlined the Russian sentiment for Ukraine, particularly for Crimea, while addressing the Federal Chamber after the annexation of Crimea by saying: "Everything in Crimea speaks of our shared history and pride. This is the location of ancient Khersones, where Prince Vladimir was baptized. His spiritual feat of adopting Orthodoxy predetermined the overall basis of the culture, civilization and human values that unite the peoples of Russia, Ukraine and Belarus" (Address by President of the Russian Federation 2014).

In addition, Russian ideological geopolitical perspective is on line with the policy of neo-Euroasianism, which conceptual foundation is that Russia derives its geopolitical strength from the position between Europe and Eastern Asia (similar with mentioned Brzezinski's reasoning) (Morozova 2009). Therewith, the Russia's fundamental ideological geopolitical objective related to Ukraine is twofold – to block it from accession to NATO and to place it in the centrum of its Euroasianism policy (Trenin 2014).

Referring to the first objective, Russian national interests concerning regional objectives are to ensure its security, as well as preponderance and control over the countries of the former Soviet bloc. In that particular geopolitical perspective, the main focus was always on Ukraine and the direction of its foreign policy. Here ideology is being employed as an instrument for ensuring strategic aims and advantages, which is certainly not a precedent in the history of international conduct. Moscow emphasized plainly on numerous occasions that the NATO enlargement, which could specifically be observed as both strategic and ideological interest, represents a security threat for Russia, therefore an essential geopolitical interest of Russia is to ensure its security by eradicating the perspectives of the NATO enlargement to Ukraine. However, Ukraine is not an isolated example in this context, due to the official standpoint that NATO expansion to the countries of Eastern Europe is part of a project to isolate Russia and constrain its strategic interests. Moreover, the Kremlin is constantly repeating that in the post-Cold war period it was promised to Russia that NATO would not extend to the countries that are traditionally perceived as a part of Russian sphere of interest (Braithwaite 2014). Therefore, the Kremlin's firm opposition to the NATO enlargement to Ukraine is important in two aspects. Primarily because possible Ukrainian accession to NATO could not be observed as an individual issue, since for Russia it would mean a significant loss of influence in the whole ex-Soviet area and a profound geopolitical defeat.

Secondly, with that firm opposition the Kremlin is sending a message that Russia is still a significant global subject that is able to preserve its regional dominance, and, more importantly, to protect its strategic security interests when they are challenged. An important instrument of the policy of neo-Euroasianism is the Eurasian Economic Union (EEU), which is established with an aim to gather and integrate post-Soviet states around Russia, and subsequently to enhance Russian bargaining power vis-à-vis Europe and the rest of the world in political and economic terms (Ditrych 2014). The EEU, which operates through supranational and intergovernmental institutions, is perceived as an element of confronting Brussels in normative and institutional terms within the so-called "shared neighborhood" (Popescu 2014). With the functional and solid EEU, Russia has shifted its policy from relying on "soft" power, military strength, energy conditionality, towards the establishment of an institutional regime for promoting its interest in the post-Soviet space. Brussels's discomfort with the progressive development of the EEU could be noted in the statement, dated just two days after signing of the Treaty aimed at establishment of the EEU, made by the European Union's (EU) commissioner for enlargement Stefan Füle: "If we are serious about transforming the countries in Eastern Europe, we have to use the most important tool for transformation: the enlargement" (Fraczek 2014).

Russian authorities are trying to take advantage of the EU's policies that are placing integration in the context of the Association Agreement, DCFTA, Visa Facilitation Agreements, but not membership. Economic integration of the post-Soviet region was usually perceived as the Russian traditional power politics play for the neighboring states - colored by the crude power, without institutional strength, and largely permeated with a discourse that belongs to the past. However, the EEU has a more focused institutional structure than any other previous instrumental attempts of gathering the ex-Soviet countries. Thus, the EEU operates as a rule-based organization, aligned with the modern international postulates, as well as with the rules and principles of the World Trade Organization (WTO) (Popescu 2014).

In order to regain its influence and secure interests in the post-Soviet sphere, the Kremlin introduced the policy which should establish an economic integration based on a regulated institutional regime (Ditrych 2014). Strengthening and fostering relations between the countries of the ex-Soviet regime is not any more emphasized by the emotional discourses about common history and religion, but by the pure economic pragmatism. Therefore, Russian authorities underline the specific economic benefits coming from the closer relation with the EEU, which is additionally supported by the solid institutional organism.

The intent of establishment of the operative EEU was to challenge the EU normatively and to create a unique alternative for the Brussels's set-up in the post-Soviet sphere. This is especially notable in the case of Ukraine, where Russia is openly advocating the EEU as an alternative to the EU integration process (Popescu 2014).

With that, the EU and the EEU are involved in direct geopolitical competition over Ukraine. With the pro-Russian political elite in power in Ukraine, Putin had an open geopolitical context to tighten and intensify the relations among countries of the CIS, i.e. to introduce and develop the idea of establishing the EEU (Tsygankov 2015). Indirectly, Russia's pushing for Ukraine to become a part of the EEU represented the important incentive for triggering the Ukrainian conflicts later on. In 2011, Russia officially invited Ukraine to become a member of the ECU, which represented an institutional arrangement towards establishing the EEU (MacFarlane and Menon 2014). Ukraine was of crucial importance for the relevance of the EEU, therefore Russia was constantly stressing the economic benefits of joining the organization, particularly in terms of increasing trade (Tsygankov 2015). It is particularly important to note that with an official invitation to join the ECU, Ukraine also received promises regarding another significant discount on gas prices (Kropatcheva 2011). Nevertheless, Yanukovych rejected the offer to join the ECU, but also, what is more important for Moscow's national interests, refused to sell the controlling shares of Ukraine's national oil and gas company, Naftogaz, to the Russian-controlled global energy company Gazprom (Tsygankov 2015).

However, the Kremlin understood profoundly the geopolitical context and used properly the EU's indecisiveness to act accordingly. Primarily, the Russian authorities offered Ukraine another additional discount in energy prices, along with 15 billion dollars as a financial aid (McElroy 2013). Yanukovych's response was in November 2013 at the EU summit in Vilnius, where he stated that Ukraine postpones the AA with the EU (Traynor and Grytsenko 2013). That particular decision triggered Euromaidan protests that lead to further conflicts on the territory of Ukraine. Due to its size and geopolitical significance, the accession of Ukraine to the EEU would bolster this relatively new institutional setting in economic, geographic and political terms.

## CONCLUSION

The aim of this article was to portray complexity of the crisis that has shaken not just Ukraine, rather entire Europe and beyond. The core of that ramification could be located in the involvement of external powers that sparked already delicate ethno-national image of Ukraine. Given that states' foreign strategies and actions are defined by its particular interests in specific historical context, in order to understand the essence of the Ukrainian crisis it is necessary to elaborate on the concrete motives of external actor involved. Therefore, this article attempted to develop the argument that Ukraine is geopolitically attractive in strategic, economic and ideological domain, as well as to present geopolitical motives of Russia. In addition, the mere importance of Ukraine, due its strategic geographic position, energy resources and corridors, implies that geopolitics lies at the heart of the most severe crisis since the last decade of the XX century.

Brzezinski throws light on the geopolitical significance of Ukraine in the context of great powers' tendency to secure dominance in Eurasia. Hence, he assigned Ukraine a pivotal figure on the "Eurasian chessboard" due to its vital geostrategic position, major resources, access to the Black Sea and importance for Russian strategic interests.

Therefore, in terms of realist perspective and geopolitical thoughts, Brzezinski's writings still represent a valuable asset in the analysis of current crisis in Ukraine. At the end, I would argue that contemporary global challenges and conflicts require a comprehensive analytical geopolitical approach, hence the Ukrainian crisis represents a profound argument that geopolitical paradigm, discourse and practices still have a major role in contemporary global politics.

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Indexing
Abstracting

# THE ALEVI / ALAWITE FACTOR IN TURKEY - SYRIA RELATIONS IN THE LIGHT OF THE SYRIAN CRISIS

## Mkrtich Karapetyan

*Faculty of Political Science, University of Bucharest, Romania*
mnkarapetyan[at]yahoo.com

*Abstract: The Syrian civil war exacerbated sectarian divisions between the Alawite-ruled Syrian government and Syria's Sunni population, straining also the relations between the Sunni majority and Alawite and Alevi minorities of the neighboring Turkey. The Alawites and Alevis of Turkey were predominantly supporting Syria's president Bashar al-Asad, while the Turkish government greatly supported the Sunni insurgents of Syria. The paper aims at examining how Alawites and Alevis have influenced the relations between Turkey and Syria in the light of the Syrian civil war, the reasons behind the sympathy of Alevis for the Syrian government and the implications that Turkey's Syria policy has had domestically. It finds that the Alevi / Alawite factor has had some restraining effects on Turkey's antagonistic policy towards Syria. In the introductory part, the article touches upon the differences and the similarities between Alevis and Alawites, then it analyzes the developments in regards Turkey's policy towards the Syrian crisis that were also reflected in Ankara's domestic policy vis-à-vis its Alevi and Alawite minorities.*

*Keywords: Turkey - Syria relations; Alevis; Alawites; Syrian crisis; sectarian policies*

## INTRODUCTION

In order to understand the role that Alevis and Alawites play in the relations between Turkey and Syria and the impact they have on them, first of all, it is necessary to have an insight into their identities and the characteristics that differentiate them from the Sunni majority, as well as from each other. In English-language academic papers and in the media, there are two denominations that are being mainly used: Alawites or

Alawis and Alevis, in order to make a distinction between predominantly ethnically Arab Alawites, which are native to mainly Syria and Lebanon, and Turkish Alevis, ethnically Turkish and Kurdish, native mostly to Turkey's southern provinces. Nevertheless, it is quite disputable how accurate these denominations are, as the word itself is the same, both in Arabic and Turkish, and means "followers of Ali": both are called 'Alawi in Arabic and Alevi in Turkish. However, we chose to use the most commonplace denominations met most widely both in academic papers and in the media: *Alevis* and *Alawites*.

Alevis are a group of around 15 to 20 million people, living mostly in the south of Turkey. In spite of having roots in the early Islamic period, Alevis appeared as a separate group only centuries after the Prophet Muhammad. Until the 16th century they were known as *Kızılbaş* (red head), who had fought along the Safavids against Ottoman Turks, while the formers' defeat to Sultan Selim I, had significantly affected the further fate of the group, making them a subject of constant persecutions (Stewart 2007, 51). Alevism or Kızılbaşism was based on beliefs that were spread in Eastern Anatolia before the 16th century, but the formation of the main axis around which this religious current is developed was laid by the Safavids (Jigulskaya 2013).

Despite being under the Ottoman rule for several centuries the Alevis of Anatolia did not accept the Sunni Islam followed by the Ottomans. In modern days, along with many Alevis that identify themselves as ethnic Turks, around 20% of the Alevi population carries Kurdish ethnicity (Stewart, 2007, 51), like the Zaza Kurds, that predominantly live in the province of Dersim (Tunceli). Alevis have organized many rebellions against the Turkish state, the greatest of which was staged in 1937 in Dersim by Alevi Zaza population and was brutally defeated by the Turkish army (Kaya 2011, 116). The ethnic diversity of Alevis, added to their religious identity, has created more difficulties for the Turkish state, given the strong nationalism of many of these Kurdish Alevis. Anyawy, regardless of the fact that a significant number of Alevis are Kurdish, all of them use Turkish in the *cem*, or ritual prayer, and there is no clear divide or dissension among Alevis in regards their ethnic identity (Stewart 2007, 51). The Alevi population in general is strongly secularist, loyal to the secular tradition of the Turkish republic, and opposes the religious state institutions, that actively promote Sunni Islamic interests, while Sunnis are mainly considered to be more inclined to the unity of religion and politics (Kaya 2011, 147). Thus, it seems that ethnicity does not have a great impact on the relationship between Kurdish and Turkish Alevis, and even the Arab Alevis (Alawites) of Turkey. The major factors that unite them and indentify them are their religious affiliation and their secularist views. The Alevi religious doctrine is focused around the deification of Ali, the cousin and son-in-law of Prophet Muhammad. Similar to Shi'ites, Alevis reject the first three Sunni caliphs, Abu Bakr, Omar and Othman and accept the fourth one, Ali, believing that the latter's place was taken by them, and considering Ali and his sons, Hasan and Hussein, as the rightful line of succession.

Alevism offers four paths to God, prioritizing the trinity of Allah, Muhammad and Ali (Stewart 2007, 52). Nonetheless Alevis should not be considered as Shi'ites, since they do not follow some of the five pillars of Islam, like the duty to make a *hajj* to Mecca, fasting during Ramadan etc. Moreover, Alevi scholars have limited familiarity with Qur'an and *hadiths* of traditional Islamic teaching. Alevis do not regularly attend mosques, but pray at cem houses, *cemevis*. Cem is the primary ritual of the worship ceremony during which they pray to Ali, recall the names of the first twelve imams, and mourn the martyrdom of Ali's sons, Hasan and Husein (Stewart 2007, 53).

Alevi cultural and religious traditions are significant with their gender equality in many respects, regardless of the existence of some distinct hierarchy. Men are considered dominant figures within Alevi society, as well as at the household, and women generally have to comply with their demands. Nevertheless, in comparison with mainstream Sunnis or Shi'ites, there is minimal physical separation of the sexes in daily life, and religious ceremonies. Men and women worship together at the *cemevis*, and take part in worship ceremonies, at the same time women may also have their own separate ceremonies, without the presence of men (Stewart 2007, 54).

Thus, there is a distinct Alevi identity, notwithstanding with the fact that some ethnically identify themselves as Kurds, others as Turks. The Alevi term in Turkey has also been appropriated to describe several ethnic groups with heterodox traditions living in the Anatolia region. Among them are also the Arabic-speaking "Alevis", living in southern Turkey, mostly in the Hatay province (the former Sanjak of Alexandretta), that was annexed to Turkey from Syria back in 1939. So, these are the Syrian Alawites, which are of Arabic ethnicity, and in Turkey are called *Arap Aleviler* (Arab Alevis).

Alawites mostly live in the north eastern arc of the Mediterranean coastline, between northern Lebanon, and the Cilician plain in modern-day Turkey. In Syria Alawites are approximately 3 million people, which are around 12-15 percent of the population (Goldsmith 2011, 35). Alawites and Alevis are not ethnically related, but they share a lot of cultural and religious similarities. Alawite doctrines date back to the 9th century A.D and were advocated by Ibn Nusayr, who is considered to be the founder of the Alawi religion (Pipes 1989). While according to Faksh, Alawites emerged as a religious sect in Syria in the 10th and 11th centuries that incorporated several Islamic, as well as non-Islamic doctrines (Faksh 1984, 135). The Alawite belief includes elements of Shi'i Islam, Christianity and paganism. The Alawites adopted several concepts from paganism, like the concept of a divine triad with its subsequent manifestations in the seven circles of world history, and the idea of transmigration of souls. For Alawites, God revealed Himself to the world seven times, each time incarnated in two figures, who, together with God composed the holy trinity (Faksh 1984, 135). Many Alawite rituals have been borrowed from Christianity, like the use of wine in rituals and the celebration of Christmas (Faksh 1984, 136).

In regards the idea of Alawism being a mix of different Islamic and non-Islamic beliefs, Springett points out to influences on the Alawite or Nusairi religion from Zoroaster and the Magians. One of the proofs of the influence of Zoroaster and the Magians on the religion of Alawites might be traced in the attribution of light as the symbol of Deity (Springett, 142). Alawites, also known as Nusayris, after Ibn Nusayr, similar to Alevis were denounced by the majority Sunnis for their "religious heresy", and both suffered heavily under the Ottoman rule for over 4 centuries (Stewart 2007, 52).

Daniel Pipes argues, that by most standards Alawites should not be considered Muslims, since they reject Islam's main tenets, and while the Muslim proclamation is, "there is no deity but God and Muhammad is his prophet", Alawites assert that "there is no deity but 'Ali, no veil but Muhammad, and no bab but Salman" (Pipes 1989). The controversy over Alawites' Muslim or non-Muslim identity has been debated for hundreds of years, and there have been various opinions on that issue, but it is not an objective for this paper. Nonetheless, it seems necessary to mention that since 1930s a number of Sunni and Shi'ite clerics have issued *fatwas* declaring Alawites as Muslims, and after Hafez al-Asad became president in Syria, Imam Musa al-Sadr, a prominent Shi'ite cleric issued a similar fatwa in 1973 in support of Hafez al-Asad, whose legitimacy was being challenged by some Sunnis that claimed he did not comply to the clause in the Syrian Constitution which asserted that the President of Syrian Arab Republic should be a Muslim (Kramer 1987, 243). This seemed to close the topic at the time and Alawites have ever since been largely viewed as a branch of Twelver Shi'ites.

Thus, it can be stated that Alevis and Alawites or Alawis, do have a number of differences, along with scores of similarities. Nonetheless, the existent differences do not lead to any animosity between them, be it between Syrian Arab Alawites and Alevis, in general, or between Kurdish and Turkish Alevis. This could be attributed to the overall liberal nature of both currents and the lack of deep religiousness, which, on the opposite, can be observed among Sunnis, for instance, or other Shi'ites. The similar denominations of these groups, meaning followers of Ali, also imply solidarity among them in terms of regular people.

## THE SYRIAN CRISIS AND THE SOLIDARITY BETWEEN TURKEY'S ALEVIS AND SYRIA'S ALAWITES

The beginning of the Syrian uprising since March 2011, following the so-called "Arab Spring" revolutions in Tunisia, Egypt and Libya, gradually increased the sectarian tensions in Syria, spreading also to the rest of the region. The protests in the country with a Sunni majority of around 70 percent against president Bashar al-Asad, a representative of the Alawite minority of around 12 percent, naturally did take on sectarian overtures, which were also reflected in neighboring Turkey, where around 20 percent of the population identify themselves as Alevis, though unlike Syria, Turkey is

led by the representatives of the Sunni majority. After a short period of hesitation the Turkish government started avowedly supporting the Syrian rebels fighting against the Alawite president, and directed fierce criticism against the latter, showing solidarity with Syria's Sunni majority, thus putting an end to a decade long Turkish-Syrian rapprochement. The danger of a Sunni takeover of the country, after the rebels had a number of victories against the Syrian army in different locations, and especially after the advent of ISIS into the Syrian scene, increased the Alawite fears of extermination under a possible Sunni rule.

Erdoğan and other Turkish officials stated many times since the outbreak of insurgency that Ankara considers the Syrian issue as a domestic issue for Turkey (BIRGÜN 2011), mostly pointing out to the long border and the established close ties between the two states. Ankara's perception of the events in Syria as a "domestic issue" was based on two main factors: the geographical factor, considering the common border of over 800 kilometers, and the demographic one, considering the existent sectarian diversity in both countries, with a similar formation, but different sizes: the existence of a Sunni majority and an Alevi / Alawite minority on one hand, and a Kurdish factor on the other (Ash-Sharq al-Awsat 2011).

Overall, Ankara had two main interests in post-2011 Syria: to ensure that the Asad regime is replaced by a Sunni Islamist power and to forestall the apparition of a Kurdish autonomous entity in the north of Syria (Okyay 2017, 834). And in meeting both these ends, Ankara had to take into consideration also the Alevi factor, which could be an obstacle for both, since the majority of Alevis would certainly oppose the policy aimed at installing a Sunni Islamist regime in Syria, while a part of them, at least the ones who identify themselves as ethnically Kurdish, would oppose hostilities against their Kurdish brethren in Syria. Turkey's bias in favor of Sunnis was demonstrated in AKP's (the Justice and Development Party) domestic policy since the early period of the Syrian conflict. Since 2011 the AKP leaders accused the opposition CHP (Republican People's Party) leader Kemal Kilicdaroglu in supporting the Syrian government, represented by Syrian Alawite Bashar al-Asad, thus, unwittingly alleging sectarian solidarity between Turkish Alevis and Syrian Alawites. Prime Minister Erdoğan directly accused Kilicdaroglu and the CHP in being Alevis, and therefore Alawites. The Turkish PM had even announced that one should not "forget that a person's religion is the religion of his friend. Tell me who your friend is and I'll tell you who you are" (Shwartz 2012).

Anyway, the shift in Turkey's stance towards the Asad government did not happen so abruptly and was officially demonstrated only after June 12 parliamentary elections. Since March, during the first couple of months of the "Syrian Spring", Turkey's official stance was one of a friend both to the Syrian authorities, with Bashar al-Asad at its head, and the Syrian people. Ankara was emphasizing the friendship between the two states along with the calls for implementing reforms (Reuters 2011).

This, besides being a somewhat neutral policy of waiting for more developments with a view to be able to decide which side to support eventually, can also be regarded as a way for AKP of not losing prestige and potential voters, particularly among the Alawite and Alevi minorities of the country, before the nearing June 12 parliamentary elections. Ankara's explicit support for the Sunni rebels, fighting against Syria's Alawite president would certainly result in losing many votes. So the AKP refrained from taking a radical stance towards the Syrian conflict before the elections.

Weeks after the elections, where the AKP won around 50 % of the vote and 327 seats (out of 550) in Turkey's parliament (Esen and Ciddi, 2011), Ankara's posture towards Damascus greatly changed. Turkey started pursuing more active policy for reaching the overthrow of Asad, facilitating the Syrian opposition's activities within Turkey, as well as supplying arms to the Syrian insurgents (Karaveli 2012). Thus, Turkey appeared in a confrontation with the Alawite regime in Syria, embracing the Sunni cause in the neighboring country and beyond. Ankara adopted an interventionist regional policy, with sectarian overtones, which, besides the support to the Syrian Sunni rebels, manifested in developing links with Sunni elites in Iraq, and supporting the Egyptian Muslim Brotherhood (Tank 2014, 11). Many analysts noted that Turkey started using sectarian language more and more, playing the role of "the Sunni elder brother" in the region (Gettleman 2012). The deterioration of Turkish-Syrian relations in the context of these developments signaled the final failure of the "zero problems with neighbors" policy, as the rapprochement with Damascus had been its main achievement. If in 2008 Ankara was praised for its potential of speaking to all regional powers from Iran to Israel, thanks also to its relations with Damascus, it "now aligned predominantly with conservative Sunni Muslim partners such as Qatar and Saudi Arabia, and is being increasingly seen as a partisan actor" (ICG 2013).

In the process of implementing its Sunni-oriented policy Ankara did little to meet the Alevi and Alawite concerns in that regards. As Karaveli argues, the Erdoğan government, "while sponsoring the Sunni cause" in Syria, "made no attempt to show sympathy for the fears of the country's Alawite, Christian and Kurdish minorities" (Karaveli 2013).

Nonetheless, the AKP took some steps, seemingly aimed at calming the Alevi sentiments within the country against the government, but apparently also directed at decreasing the popularity of the CHP among them, thus trying to "kill two birds with one stone". In November 2011, Ankara for the first time publicly apologized for the Dersim massacres (Hurriyet, 24 Nov 2011). The announcement, made by Erdoğan, on the one hand aimed at appeasing Turkish Alevis, displeased with the government's assistance to the insurrection against the Alawite al-Asad, while on the other hand, it sought to discredit the CHP, as Erdoğan reminded in his speech that the latter ruled Turkey during the period of massacres in Dersim, saying, "if someone is to apologize for and face up to this tragedy, it is not the AKP and the AKP government but the CHP, the author of

this bloody episode, as well as the CHP deputies and the CHP chairman who hails from Tunceli [Dersim]" (Hurriyet 24 Nov 2011). So this neither seemed to be an apology that could be accepted by Alevis, nor could it dispel their fears or distrust towards the government. The CHP leader Kilicdaroglu, a Kurdish Alevi, was being targetted, as he had condemned Erdoğan's anti-Asad stance in several occasions, describing it as "an interference in the internal affairs of a neighboring state that could cost Turkey dearly" (Sidki, 29). During an Alevi gathering in Istanbul in 2012, the main issue that was discussed by the participants was the threat posed to Syria's Alawite minority. A Turkish Alevi leader noted that "some groups fighting Assad's regime were identifying with historical Sunni figures who fought the formerly repressed Alawite minority" (DW 22 March 2012), considering this as a clear sign of their intentions towards Alevis and fearing that their success would lead to massacres of Alawites, and they would be expelled from the country. The CHP, similar to Damascus, viewed the insurgence in Syria, as an "imperial conspiracy" against a government that was one of the principal supporters and advocates of the Palestinian resistance. The Turkish opposition party insisted that the conspiracy aimed at dividing Syria "into sectarian and ethnic clashes", which could have its implications also in Turkey (Sidki, 30).

In the context of the discussions over a possible military confrontation between Turkey and Syria, Cagaptay suggests that a Turkish military intervention in Syria could be viewed by Turkish Alevis as a "Sunni attack" against "fellow Alevis" (Cagaptay 2012). So, the Turkish public support for active Turkish intervention in Syria was fairly limited. Anyway, though several incidents of direct military clashes between Turkish and Syrian forces have occurred, the first one being the downing of a Turkish in June 2012 (Karaveli 2012), they never grew into a full-scale war between Turkey and Syria, as some predicted. After Turkey had cut all ties with Damascus and gave up negotiations, the CHP continued keeping in touch with al-Asad. They sent a delegation to Syria, that visited Damascus, Hama and Latakia to observe the conditions there, and at the end it stated the party's opposition to foreign intervention in Syria's domestic affairs.

In March 2013 the CHP deputies visited Bashar al-Asad in Damascus, reinstating their rejection of foreign interference in Syria (Cagaptay 2013). The sense of solidarity between Alawites and Alevis was translated into sympathy for Asad. Eichler quotes the words of an Alawite resident of Antakya, "after the events in Syria, most of the Alevi people in Turkey have supported Assad as he is Alevi or Alawite, and they believe they are under threat. Actually, they are not interested in Assad's personality or what he has done" (Eichler 2014). This seems to summarize the reasons behind popular Alevi sympathy for the Syrian regime and shows that Ankara's policy in regards the Syrian crisis, as well as its domestic policy towards the Alevi and Alawite minorities, especially during the Syrian crisis, consolidated the ties between Alevis in Turkey and Alawites in Syria, further boosting the existing sympathy and solidarity between them. Ankara did make some attempts to break the solidarity between Alevis and Syrian Alawites, but

they had either the opposite effect or none at all. During this period several articles could be found in Turkish newspapers speaking about the differences between Alevis and Syrian Alawites or Nusayris, mostly pointing out to the variations in their religious beliefs and practices (Ensonhaber 2012; T24 2012; Akyol 2012). Most of such publications were merely propaganda and this narrative can mainly be viewed as an attempt of convincing or showing to Turkey's Alevis that they and Arab Alevis (Alawites) are not the same, and to some extent neutralize their support for and solidarity with Syrian Alawites, in general, and the Alawite government of Bashar al-Asad, in particular.

These kinds of attempts had no serious results, mainly because the solidarity between Alevis and Alawites is not based only on the religious similarity, rather the closeness of their ideological beliefs. This is confirmed by the statement of a former head of Turkey's Alevi Institute, Cengiz Güleç, made in an interview to the Turkish Aksam newspaper in September 2012, saying that the Alevis' sympathy for Asad was not just stemming from religious considerations, but also, and more than that, from ideological insights. According to Güleç, most of the Alevis are close to the leftist ideology, while the Ba'as regime in Syria is also leftist, and is the strongest resistance power in the Palestinian issue (Aksam 2012). Turkey's policy in regards the Syrian conflict was most negatively accepted in the province of Hatay (the former Sanjak of Alexandretta), which is very sensitive with its ethnic and religious diversity, being populated by the largest proportion of Arabs, especially Arab Alawites, along with Sunni Arabs, Arab Christians, Kurds, Circassians and Armenians. The overwhelming majority of Hatay Alawites are secular and in opposition to the Islamist AKP and generally support the CHP, and as Ankara started supporting Syria's opposition and armed rebels, the anti-AKP sentiments further increased among them. Turkish Alevis, also being secular and supportive of the CHP, would, as Cagaptay argues, follow the Arab Alawites of Hatay in case of more rigorous protests against Ankara's policy towards Damascus (Cagaptay 2013).

Since 2011 several demonstrations had been organized in Hatay mainly by Alawites, but also with the support of some other minorities. Local Alawite groups, like "Platform against imperialistic interference in Syria", organized a number of pro-Asad rallies during this period, the largest of which was held in September 2012, where around 10 thousand people took the streets (Cagaptay 2013). In February 2012 a few thousands protested in Antakya in favor of the Asad government in Syria and against the US and Turkish intervention. Many Alawites expressed their anger with Ankara's policy towards Damascus, as well as the government's treatment of the Alawite minority. However, as an observer notes, they were not so supportive of the Asad government, as they were worried about the silence on the murders committed by the "opposition forces" in Syria, and the AKP was perceived as collaborator of the US and the protector of the Muslim Brotherhood (Cicektakan 2012).

These pro-Asad sentiments and solidarity in the southern parts of Turkey, triggered also by the AKP's pro-Sunni rhetoric, brought up additional difficulties for Ankara in implementing their Syrian policy. As Ankara had already crossed the point of return in its relations with Damascus, it wanted to reach the ousting of Asad and facilitate the installment of a Sunni government in Syria, even by the way of direct military intervention. Nevertheless, there were many obstacles for Turkey in doing that, among which was also the Alevi / Alawite factor. As Cagaptay argues, it made Turkey think twice before intervening in Syria, since the rising sectarian tensions could bring the fighting into its own territory (Cagaptay 2013).

## THE SECTARIAN TENDENCIES IN ANKARA'S SYRIA POLICY AND ITS DOMESTIC REPERCUSSIONS FOR TURKEY

Turkey's Sunni-oriented stance and rhetoric towards the conflict in Syria had caused sectarian tensions within the country increasing the sense of vulnerability among Alevis and Alawites, thus feeding more social tensions. Ankara's policy of allowing the Syrian armed rebels to use Turkish territories as a foothold for fighting the Syrian authorities had left Turkey's border regions in danger of attacks. This fact was emphasized in May 2013 when a car-bomb explosion occurred in Reyhanli in Hatay, killing 53 people (Eichler 2014). The Turkish officials attributed the responsibility of the explosion to the Syrian intelligence and a secret Turkish Alevi organization, while Erdoğan accused Alevis of collaborating with Syrian intelligence in carrying out the attacks (Barél 2013). Furthermore, when speaking about the attacks, and referring to fatalities, Erdoğan said "our Sunni citizens" (Çandar 2016), thus publicly announcing a special attitude and care for Sunnis, to the detriment of Alevis. Following the Reyhanli explosion and several other cross border mortar shelling cases and bomb attacks, Turkish authorities declared the launching of different projects aimed at enhancing the border security, including the erection of walls at several points of the border (Okyay 2017, 839). These projects started being implemented in October 2013, and by 2014, Ankara had built 13 kilometres of walls, dug around 300 kilometres of ditches, and installed 160 kilometres of barbed wire along its Syrian border and by 2015, half of the 40.000 military personnel guarding Turkey's borders were deployed at the Syrian border (Okyay 2017, 839).

These steps came as countermeasures for Turkey's earlier policy of relaxing border controls aimed at facilitating the entrance of Syrian refugees to Turkey, which had also contributed to Alevi and Alawite concerns. Since the beginning of the unrest in Syria in March 2011, Ankara had adopted a policy of nearly unconditional opening of the borders to people fleeing Syria, calling it the "open door policy". This was mainly aimed at emphasizing "on human rights, democracy and humanitarian sensitivities" in Turkey's regional policy, while more pragmatically delegitimizing the regime of Bashar al-Asad

by "substantiating Ankara's claims about atrocities committed by it" (Okyay 2017, 837-838). Turkey's open border policy in the Hatay province resulted in the arrival of large numbers of Sunni Arab refugees, destabilizing the demographic and sociological balance of the region. This, along with the free circulation of armed rebels in border areas caused an increase in the Alawites', as well as other non-Sunni or non-Muslim communities' perceptions of insecurity. This policy was interpreted by Alawites as part of Ankara's project of "Sunnification of the region" (Okyay 2017, 838), a view that was largely shared also by the Turkish Alevi community and other secular elements of the Turkish society (Hinnebusch 2015, 20). Several refugee camps and surrounding areas were often used by Syrian opposition fighters as sanctuaries for meeting with families, receiving medical treatment, and purchasing supplies (ICG 2013). This was also exacerbating the "sensitive ethnic and sectarian balances, particularly in Hatay province". Tensions were noticed between Hatay Alawites and Sunni refugees from Syria, who were viewed by some Hatay Alawites not merely as refugees, but fighters who had killed or endangered their families and brethren in Syria. Complaints were reported from some Alawite businessmen and public officials that they had been threatened and in some cases blacklisted or intimidated by Sunni refugees (Cagaptay 2013). Many Alawites and Alevis blamed the Turkish government for intentionally placing refugee camps near their localities, thus trying to kick them out of their historic strongholds by replacing them with Sunni Syrian refugees (Nawa 2017). The sense among the Hatay population that AKP was playing the sectarian card and deepening religious and ethnic divisions was reinforced by the introduction of a law in December 2012 (Resmi Gazete 2012), that would reorganize provincial boundaries and separate Antakya along sectarian lines. It was implemented in 2014, and all Alawite districts were gathered under a new name, neighborhood of Defne, while the majority Sunni quarters became Antakya. The residents of the city started calling this new demarcation line "the Berlin Wall" (Letsch 2013).

Ankara also took some steps to reassert the "Turkishness" of Hatay, by printing textbooks for Syrian child refugees that showed it to be a province of Turkey, unlike those in Syria that had been including the region within Syria, despite the fact that it de facto belongs to Turkey (Abdulrahim 2013).

These developments connected to the Syrian conflict, were also contributing to the anti-government sentiments among not only Hatay Alawites, but also Alevis of other regions. In 2014, Erdoğan's election as Turkey's first popularly elected president that consolidated the AKP's position in power, and later on, the constitutional amendment of 2017, that abolished the office of the Prime Minister, making Turkey a presidential republic, further increased the fears of Alevis for their position as a religious minority within a predominantly Sunni state (Tank 2014, 4). Alevis have for years demonstrated against the discrimination against them, connected to various occasions.

One of the main issues for Alevis has been the community's official recognition as a religious minority, something that Ankara has been refusing to do up to the present. The Alevi community demands from the Turkish state to support Alevi religious services, for example, to recognize their religious leaders as such and recruit them as civil servants. Alevis also seek official recognition of their places of worship, cemevis, demanding state subsidies for the religion. After getting rejects by Turkish courts for these demands, the Alevi community has even applied to the European Court of Human rights, which announced its verdict in April 2016, ruling that the Alevis faced discrimination by the state, and were denied the right to freedom of religion (Hallam 2016).

Alevis seek the recognition of cemevis inasmuch as it will make the Diyanet (Directorate of Religious Affairs) provide financial means for building Alevi cemevis. Nevertheless, the financial means have not been the main issue, rather Ankara's unwillingness or refusal to allow building cemevis. In several occasions when Alevis have been able to construct cemevis, the Turkish authorities have built Sunni mosques nearby. In September 2013, the ground-laying ceremony of building a Sunni mosque and an Alevi cemevi side-by-side was celebrated in Tuzlucayir , a suburb of Ankara, that raised protests among Alevis, which even led to clashes between protesters and the police. It is noteworthy that this suburb is around 80 % populated by Alevis, and the AKP had received less than 10% of the vote here in 2011 parliamentary elections (Tremblay 2013). It is obvious that by building Sunni mosques in such localities, Ankara has been trying to increase the Sunni influence there.

In 2015 an Alevi cemevi was turned into a Sunni mosque in Osmancik, in northern part of Anatolia. Obviously, even if the Turkish state tolerates Alevism as a cultural identity, only Sunni mosques are recognized as places of Islamic worship. Erdoğan is quoted saying that cemevis are not places of worship, rather "a centre for cultural activities", and that "Muslims should only have one place of worship". There are also instances when the Diyanet builds mosques in Alevi towns which they do not need, and accredits Sunni imams (Kingsley, 2017). Moreover, Ankara continuously increases the number of religious schools, that concentrate on the teaching of Sunni doctrine, while in several places there are no secular schools at all (Kingsley 2017). These and several other similar steps have increased the Alevis' fear of assimilation.

In such context, the gradual increase of the numbers of Syrian refugees in Turkey that are now estimated at around 3.5 million (UNHSR 2018), the absolute majority of which are Sunnis, further deepened the sectarian division between Sunnis and Alevis. In 2016, for instance, the Alevi population around the southern Turkish town of Kahramanmaraş demonstrated against the construction of a refugee camp outside the city because of their distrust towards the Sunni refugees and the fear of sectarian tensions. The Economist quotes a Turkish human rights activist, saying that Alevis think "the refugees are jihadists, and the refugees think the villagers are Assad supporters"

(The Economist 2017). The refugee crisis in Turkey has created a general public resentment against the Syrian refugees, who are blamed for the country's economic difficulties, and the opposition parties, like the CHP, used these sentiments against Erdoğan during the campaign for the presidential and parliamentary elections of 24 June 2018 (Beevor 2018).

Turkey's controversial stance towards ISIS, and its activities in Syria, has been another factor in the Sunni-Alevi divide. Ankara refused to open the Incirlik airbase for the coalition forces that were bombing ISIS, because, as Kadri Gursel states, "AKP ideologoues see ISIS as a Sunni actor and thus attribute the group a certain rationale" (Gursel 2015). Although, after around two months of hesitation, Turkey agreed to allow the US launch air strikes against ISIS from the Incirlik airbase (Reuters, 2015), it did not change the Alevi perception of the AKP's pro-Sunni nature. When in August 2016 Ankara finally decided to send troops to fight against ISIS, Abu Bakr al-Baghdadi, the self-proclaimed caliph of the Islamic State, manifestly threatened Ankara, declaring jihad against Turkey. Over the years of 2015 and 2016 ISIS bombings killed hundreds of people in Turkey, from different religions and ethnicities (Nawa 2017). Alevis felt most endangered inasmuch as along with sectarian differences between them and Sunnis, they live close to Turkey's borders which were under direct threat of ISIS. Several incidents of Alevis being a direct target of different ISIS operations and attempted strikes, were uncovered by Turkish police during 2016 (Nawa 2017).

Alevis were also one of the main targets during and after the coup attempt against Erdoğan on 15 July 2016. On the night of the failed coup d'état, fights broke out in the Gezi neighborhood between AKP supporters and Alevis that were not willing to join the demonstrations in support of Erdoğan, and therefore were denounced as traitors. The government started a crackdown against Alevis and many were arrested for allegedly cooperating with what Ankara calls the "Fethullah Terrorist Organization" (FETO), naming it after the exiled Islamic cleric Fethullah Gülen, who was accused by Erdoğan for being behind the failed coup (Bulut 2018).

Thus, despite the fact that the Sunni Islam has always been predominant in Turkey, during the AKP rule the country's state identity has been gradually altered, distancing from Kemalist secularism towards an extra emphasis on majoritarian Sunnism (Tank 2014, 4), which became more obvious by Ankara's policy towards Damascus, particularly during the initial phase of the Syrian crisis.

## CONCLUSION

Drawing conclusions based on this research it can be stated that Alevis and Alawites are two distinct religious groups, who, along several differences, share a number of similarities, that turn out to be the decisive factors in their mutual sympathy and solidarity. Their almost identical concurrent denominations, in spite of their different origins, their religious similarity and the similar differences they have with mainstream Sunni Islam, along with their secular ideologies and the lack of religious fundamentalism among them seem to be the key uniting characteristics between them.

The deterioration of the relations between Turkey and Syria in the aftermath of the advance of the "Arab Spring" to Syria, and Turkey's sectarian approach and policy towards the Syrian conflict reinforced the existing solidarity between Alevis and Alawites. Ankara's stance against the government in Syria, ruled by Arab Alevis or Alawites, and its logistical, financial as well as military support to jihadist Sunni forces to topple the Damascus regime, meant the almost irreversible breaking off of Turkish-Syrian partnership of over a decade. Turkey's intentions to overthrow Bashar al-Asad and install a Sunni regime in Damascus were opposed by its Alevi and Alawite minorities, a fact, that created difficulties for Ankara's new Syria policy. In this regards, we suggest, that, if Ankara had had public support among Alevis for its stance from the developments in Syria, it might have intervened militarily in Syria in an early period of the conflict, seeking to overthrow the Asad government. But, as we saw, at least the majority of its Alevi and Alawite population were against any military intervention in Syria, and such a step by Ankara might have had unwanted developments for Turkey. Thus, the Alevi / Alawite factor, of course among other geopolitical considerations, had some preventive or mitigatory effects on Turkey's antagonistic plans in Syria. It also has the potential of being a stabilizing factor in Turkish-Syrian relations in the future, if Ankara ceases to pursue a sectarian policy in the region and within the country, considering the Alevis' inclination of having good relations with Syria. Nevertheless, Erdoğan's Syria policy, with its sectarian overtones, had some negative repercussions for Turkey domestically. The primacy of Sunni identity in the AKP's regional foreign policy, and especially its Syria policy, resulted in the growth of the Sunni-Alevi polarization within Turkey. It increased the tensions between Sunnis and Alevis, further emphasizing the distrust and fears of its Alevi, as well as Alawite minorities, towards Erdoğan's Islamist government.

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Indexing
Abstracting

# STUDENT AND PARENTAL ATTITUDES TOWARDS VOUCHERIZATION OF EDUCATION

## Admir Čavalić

*Department of Management, Faculty of Economics, University in Tuzla,*
*Bosnia and Herzegovina*
admir.cavalic[at]yahoo.com


## Damir Bećirović

*International Business and Information Academy Tuzla,*
*Bosnia and Herzegovina*
damirbeci[at]hotmail.com


## Amela Bešlagić

*International Business and Information Academy Tuzla,*
*Bosnia and Herzegovina*
amela.beslagic[at]hotmail.com

*Abstract: Voucher system of education implies the use of vouchers as instruments of financing public and private education. Unlike the traditional ways of financing education, the voucher system creates the assumptions for increasing the freedom of choice regarding educational programs within different levels of education. Paper will use scientific methods of systematization and analysis of existing literature regarding school vouchers, in order to give a critical review of the influence of vouchers on increasing the competitiveness of education. The paper will also present the results of the research of student and parental attitudes about towards voucherization of education. Research sample includes respondents from Bosnia and Herzegovina, Republic of Croatia and Republic of Serbia. Along with the conclusion, the paper also offers some recommendations regarding the use of vouchers for the improvement of local education systems.*

*Keywords: education; education management; education vouchers*

## INTRODUCTION

When it comes to models of educational system there have been remarkable changes over the past few decades. This is, in particular, related to prevailing financial model for education as well as the question of the parental freedom to decide in which educational institution to send their child. In this context, the concept of voucherisation of education emerges, i.e. educational vouchers that allow parents to have a certain degree of freedom of choice. Starting from the current fact that the issue of vouchercization of education is still insufficiently researched and discussed in public discourse and academic literature in the Western Balkans, the paper seeks to explore the theoretical concept of education vouchers, and empirically determine the attitudes of parents and students about this issue, from countries of Bosnia and Herzegovina, the Republic of Croatia and the Republic of Serbia.

The subject of the research is the attitudes of the key decision makers (students and parents) about the process of education voucherization. In this regard, the research objective is to explore the knowledge and attitudes of decision-makers, i.e. parents and students about the system of vouchercization of education, as well as the effects of the voucherization phenomenon.

This paper uses the scientific methods of systematizing the existing knowledge and analysis of the results of empirical research. The paper is divided into three parts. The first part gives an overview of the literature by reviewing the present research in this field and the theoretical framework of the research. The second part of the paper is related to research methodology, while the third part of the paper refers to the concrete research results. Finally, an appropriate conclusion is provided, with recommendations for further research in this area.

## PREVIOUS RESEARCH

The majority of educational voucher debates is normative and theoretically based (Campbell, West, Peterson 2005) on the basic reason that a very small percentage of students had the opportunity to use these vouchers. In the total number of students, there is only a negligible number of those who use or have used educational vouchers, which narrows the space for broader empirical research in relation to the effects of education voucherisation. For this reason, previous research was usually done only in certain countries, or parts of countries, like in the case of the USA were these vouchers were introduced. Based on that, Morgan and others argue that the following effects of education voucherization can be researched (Morgan, Petrosino, Fronius 2015):

- Improvement of educational institutions according to increased competition due to voucherization;
- Fulfillment of social justice because marginalized groups have the opportunity to go to school and/or choose better schools;
- Phenomenon of "removing cream" by some schools in order selects the best students;
- Socio-economic stratification of students by schools;
- Poor results in one and better in other schools.

The study of the Chilean experience of applying educational vouchers shows that there has been a significant improvement in the quality of private educational institutions, but primarily because of their discretion to choose their own students. Thus, private schools developed a tendency to enroll a certain student profile. This has led to the migration of talented students to private schools. Improving the overall quality of education as a result of voucerisation remains unclear possibly due to hardly available earlier results on test success (Hsieh, Urquiola 2006). Dynarsky (2016) lists a number of negative effects of voucherization in his report which primarily refer to poorer grades of participants who went to private schools based on voucher system. Similarly, research carried out in Luziana (USA) indicates the negative effects of voucherization, primarily for the poor students (Trilling 2016). Nakić (2017) states that in Colombia, voucherization has increased the proportion of students who completed elementary school education by 10%. He also states that in Sweden, where education vouchers are being implemented since 1992, there has been increased competition between private and public schools and the improvement of students' results on the PISA test. An analysis conducted by Wolf (2013) shows that vouchers have a positive impact on the completion rates of secondary schools and have a positive impact on reading ability, but not on mathematical abilities. Similarly, research shows that vouchers are associated with the completion rate, but also by enrollment and perseverance in four-year colleges (Cowen 2013). Studies by Hoxby (2003) and Chakrabarti (2008) show that public schools in the USA that are using vouchers achieve better results in tests. Similarly, Brooking (2013) gives the example to the state of New York (USA).

As a part of the study on the direct impacts of education vouchers, there is no academic consensus which implies that researchers usually recommend further research (Trilling 2016). Because of this, Epple, Romano and Urquiola (2017) summarize the existing arguments for and against the voucherisation of education. Arguments for educational vouchers are:

- voucherization puts education on the market that increases competition among educational institutions, as well as freedom of choice for end users (students and parents);

- the development of the education market creates more educational variations, leading to better matching of supply and demand;
- application of regulations prevents negative externalities of educational vouchers;
- educational vouchers provide better access to education for poor students.

Same authors also cite the following arguments against vouchercization of education:

- educational vouchers affect the segregation of students (according to income and abilities);
- segregation of students leads to the decline in quality of education;
- in the long run, segregation can condition the success of some students in the labor market;
- education of students with special needs requires more financial resources, which creates pressures on public schools;
- there is a possibility of poor choice (of students and parents) according to the phenomenon of asymmetry of information on the market.

When it comes to regional research, nothing was done. Some public policies were made, for instance Stanojević's recommendation (2014) in Serbia, proposing Milton Friedman's vouchers system to solve the problem of elementary schools in this country.

## THEORETICAL FRAMEWORK OF THE RESEARCH

Voucherisation of education implies the use of vouchers in the model of financing of education. A voucher is a document, a paper by which the owner proves that he has the right to realize certain benefits when buying, paying, and conducting other economic activities (Zavod za lingvistiku 2001). In the case of educational vouchers, this is a right that allows parents to choose any pre-school, primary and secondary education institution regardless of being a privately or public owned. The issuer and financier of this voucher is the government, usually the ministry of education, depending on the political system of concrete country. As the issuer of education vouchers, the government determines who can, under what conditions and at what level of education use the educational voucher. In the case of education voucherization, the primary role of the government is to ensure that schools meet certain standards, such as having the minimum standard content in their programs (Ed Choice 2003). With the voucherization of education, the government significantly changes the current dominant form of financing education. However, it still remains the main financier of the education system.

Different voucherization models have different objectives, and the form of using educational vouchers in one country can be significantly different from the form in others (Arenas 2004). In some countries, education vouchers are only used for attending private schools (LaGrange News 2017) because the government does not have the necessary financial and infrastructural capacity to support an educational system that will be inclusive for all. In this case, vouchers support the growing phenomenon of private schools for the poor, in countries like Sierra Leone, Nigeria, Kenya, Ghana, India and China (Tooley 2005). Other countries use vouchers to improve the existing education system, such as Sweden, which introduced this form of education financing in 1991 (OECD 2017). The third important reason for introducing a voucher involves improving the freedom of choice for student's parents. This form is usually pushed by lobbying organizations and parents themselves, and as is the case in the USA. When it comes to defining this model of financing, the broadest definition of an educational vouchers emphasizes that it is a government payment to a school (or directly to parents), selected by the parents of students. Education voucher finances the whole or partial education (Morgan, Petrosino, Fronius 2015). This leads to the transition of funding from a specific institution to an individual (Bašić 2017), i.e. parents as legal guardians of a child attending a given educational institution. Hsieh and Urquiola (2006) state that the basic argument for the introduction of educational vouchers is that public schools are inefficient local monopolies. The debate about educational inefficiency leads to Adam Smith, the founder of the modern economics, who discussed in his capital book "An Inquiry into the Nature and Causes of the Wealth of Nations" about the method of financing education, as well as the motivations of teachers, as suggested by Melnik and Tamm (2008). Smith was concerned about the long-term problem of lack of motivation by teachers in the education system (Melnik, Tamm 2008). Friedman believes that the educational voucher aims to provide parents with freedom of choice, and the purpose of this is to ensure competition, which implies greater innovation and inclusiveness (Ed Choice 2003). Consequently, the question of justification of the introduction of educational vouchers can be observed in accordance with the needs of various education stakeholders.

Voucherization introduces three educational reforms: it allows parents to choose a school; it creates school initiatives to increase enrollment; and it provides schools with managerial autonomy to respond to demand (Gauri, Vawda 2003). Thus, education voucherization primarily satisfies the parents' need for the freedom to choose the school that their children will attend. This increases the autonomy of schools and their initiative to increase competitiveness. In exceptional situations, this allows other stakeholders to participate in the establishment of educational institutions. In Ireland, the trend has been that parents jointly establish schools as trading companies without the intention of making profits, and this has been proven to be a very successful model (Nakić 2017).

Education voucherisation additionally introduces profit motive in education. Namely, private and public schools receive an initiative to improve their own educational capacities and meet the educational needs of their users (students). Melnik and Tamm (2008) cite seven arguments for introducing a profit motive into education:

- More desire for expansion from education institutions;
- Better quality control;
- Education institutions branding solves the problem of asymmetry of information;
- Greater necessity of research and development;
- Suitable rewards for the efforts of teaching staff;
- Attracting investments and cost-effectiveness;
- Better career for student.

Profit motivates educational institutions to expand, while ensuring a certain level of quality in the long run, in line with competitive pressures. In doing so, educational institutes must develop their own brands, improve teaching staff and attract new students.

## RESEARCH METHODOLOGY

The research focused on students and parents from the territory of Bosnia and Herzegovina, the Republic of Croatia, and the Republic of Serbia. The research sample was made from 126 students and 33 parents. The research was conducted using social networks on Internet. Data were collected using the questitioning method, with a survey questionnaire as a data collection instrument. A five-level Likert scale was used to measure the attitudes of students and parents. The collected data was processed with the help of SPSS software.

## RESEARCH RESULTS

Research results are presented separately for parents and students. Presentation is done in the form of tables, with adequate explanations of the results.

### *Results related to parents*

The results showed that 88% of parents are not familiar with the voucherisation of education, but about 94% of parents would like to get a voucher in order to enroll their child in the school. Furthermore, 79% of parents would choose a private school for their child in the event of having a voucher, while 21% would not do so. As the most important factor that influences the decision to choose a primary school, parents point

out the location (34%) and tradition and the school brand (21%). Regarding high schools, these factors are relating to the level of knowledge and skills gained (40%), and potential to enroll to desired faculty (21%).

Table 1: Parental attitudes about voucherisation of education (Source: Authors research)

| Number | Statement | I totally do not agree | I do not agree | I do not agree, nor disagree | I do agree | I totally do not agree |
|---|---|---|---|---|---|---|
| 1. | I believe that the education voucher should be available to all students. | 6% | 9% | 6% | 9% | 70% |
| 2. | The education voucher should be available only to the best students. | 46% | 24% | 12% | 9% | 9% |
| 3. | The education voucher should be available only to marginalized groups of students (children with poor material status, national minorities, children with special needs, etc.). | 55% | 21% | 3% | 6% | 15% |
| 4. | The education voucher should be available only to students who enroll in rare occupations. | 55% | 21% | 18% | 3% | 3% |
| 5. | Voucherization leads to greater competitiveness of private and public school institutions, thus ensuring higher quality of education in public schools. | 15% | 9% | 21% | 9% | 46% |
| 6. | Vouchers will contribute to increasing the number of students in private schools. | 9% | 15% | 21% | 18% | 37% |
| 7. | Vouchers allow young people to enroll schools that match their competencies and/or preferences. | 3% | 12% | 12% | 21% | 52% |
| 8. | Education vouchers lead to better co-ordination of education with the labor market. | 6% | 12% | 15% | 21% | 46% |
| 9. | Voucherization leads to the justified elimination of technological surplus in schools. | 12% | 12% | 18% | 18% | 40% |
| 10. | The voucher system will punish bad schools/teachers and reward good schools/teachers. | 18% | 12% | 15% | 21% | 34% |
| 11. | Students using education vouchers will achieve better learning outcomes. | 9% | 21% | 21% | 21% | 28% |

Table 1 presents the views of parents regarding the voucherization of elementary and secondary education. Majority of parents (70%) fully agree with the claim that vouchers should be available to all students. 46% of them do not agree that vouchers should be available only to the best students, and 55% do not agree that vouchers should be available only to marginalized groups of students. Also, most parents (55%) do not agree at all with the statement that vouchers should be available only to those students who enroll in rare occupations. Furthermore, 46% of parents believe that vouchers lead to greater competitiveness of private and public schools, thus ensuring higher quality of education in public schools, and the same number of them believe that vouchers lead to better co-ordination of education with the labor market. 37% of parents fully agree with the claim that vouchers will contribute to the increase in the number of students in private schools, and 34% fully agree that the voucher system will punish bad schools/teachers and reward good schools/teachers. Opinions regarding the claim that students using vouchers will achieve better results are divided, and only 28% of parents fully agree with this claim.

Table 2: Results of ANOVA tests (parents) (Source: Authors research)

| Statement | Professional education | | | | |
|---|---|---|---|---|---|
| | Sum of Squares | df | Mean Square | F | Sig. |
| Students using educatin vouchers will achieve better learning outcomes. | 7,011 | 4 | 1,753 | 0,969 | **0,440** |
| The voucher system will punish bad schools/teachers and reward good schools/teachers. | 10,004 | 4 | 2,501 | 1,096 | **0,378** |
| Vouchers lead to better co-ordination of education with the labor market. | 6,765 | 4 | 1,691 | 1,013 | **0,418** |
| Voucherization leads to greater competitiveness of private and public school institutions, thus ensuring higher quality of education in public schools. | 6,018 | 4 | 1,504 | 0,621 | **0,651** |
| Education vouchers will contribute to increasing the number of students in private schools. | 4,491 | 4 | 1,123 | 0,566 | **0,690** |
| Education vouchers allow young people to enroll schools that match their competencies and/or preferences. | 5,768 | 4 | 1,442 | 1,007 | **0,421** |
| Voucherization leads to the justified elimination of technological surplus in schools. | 8,629 | 4 | 2,157 | 1,055 | **0,397** |
| | Average monthly income of the household | | | | |
| | Sum of Squares | df | Mean Square | F | Sig. |
| Students using education vouchers will achieve better learning outcomes. | 0,959 | 3 | 0,320 | 0,163 | **0,920** |
| The voucher system will punish bad schools/teachers and reward good schools/teachers. | 9,601 | 3 | 3,200 | 1,444 | **0,250** |
| Vouchers lead to better co-ordination of education with the labor market. | 0,171 | 3 | 0,057 | 0,031 | **0,993** |
| Voucherization leads to greater competitiveness of private and public | 14,501 | 3 | 4,834 | 2,361 | **0,092** |

| | Sum of Squares | df | Mean Square | F | Sig. |
|---|---|---|---|---|---|
| school institutions, thus ensuring higher quality of education in public schools. | | | | | |
| Education vouchers will contribute to increasing the number of students in private schools. | 2,494 | 3 | 0,831 | 0,419 | **0,741** |
| Education vouchers allow young people to enroll schools that match their competencies and/or preferences. | 5,668 | 3 | 1,889 | 1,362 | **0,274** |
| Voucherization leads to the justified elimination of technological surplus in schools. | 0,612 | 3 | 0,204 | 0,091 | **0,965** |
| | Country | | | | |
| | Sum of Squares | df | Mean Square | F | Sig. |
| Students using education vouchers will achieve better learning outcomes. | 7,401 | 2 | 3,701 | 2,210 | **0,127** |
| The voucher system will punish bad schools/teachers and reward good schools/teachers. | 0,429 | 2 | 0,215 | 0,088 | **0,916** |
| Vouchers lead to better co-ordination of education with the labor market. | 1,801 | 2 | 0,900 | 0,522 | **0,598** |
| Voucherization leads to greater competitiveness of private and public school institutions, thus ensuring higher quality of education in public schools. | 5,492 | 2 | 2,746 | 1,205 | **0,314** |
| Education vouchers will contribute to increasing the number of students in private schools. | 5,321 | 2 | 2,661 | 1,458 | **0,249** |
| Education vouchers allow young people to enroll schools that match their competencies and/or preferences. | 1,879 | 2 | 0,939 | 0,640 | **0,534** |
| Voucherization leads to the justified elimination of technological surplus in schools. | 5,900 | 2 | 2,950 | 1,475 | **0,245** |

Table 2 shows the results of the One-way ANOVA test which tested the statistical significance between the mean values of the parents' views on the voucherization of primary and secondary education in relation with their different socio-demographic characteristics (professional education, average monthly income of the household and the countries from which they come). The results showed that in no case a statistically significant difference was found in the responses of the observed groups of subjects (significance level of 0.05).

## *Results related to students*

In the following lines are the results related to students' attitudes about the use of vouchers in higher education. The results of the research showed that 87% of students are not familiar with the system of voucherization of higher education, while only 13% have some information about this. When it comes to reasons for studying in a public higher education institution, 38% of students indicated a higher quality teaching process, and 30% stated "free education" as a reason. As the main reasons for the selection of a private higher education institution, 37% of students indicated a more open relationship between academic staff and students, and 35% stated more modern study programs offered by private higher education institutions. Students' views on

whether to choose another public/private higher education institution duo to voucher introduction were also measured. In that case, over half of the polled students (57%) studying at a public higher education institution would not choose another higher education institution, while 43% would. In contrast, 76% of students studying at a private higher education institution would not choose another higher education institution, while 24% would.

Table 3: Student attiudes about voucherization of education (Source: Authors research)

| Number | Statement | University | I totally disagree | I disagree | I do not agree, nor disagree | I do agree | I totally agree |
|---|---|---|---|---|---|---|---|
| 1. | I believe that the education voucher should be available to all students. | Public | 5% | 14% | 17% | 23% | 41% |
| | | Private | 4% | 4% | 35% | 11% | 46% |
| 2. | I believe that the education voucher should be available to all students. | Public | 26% | 29% | 27% | 9% | 9% |
| | | Private | 17% | 35% | 30% | 11% | 7% |
| 3. | The education voucher should be available only to marginalized groups of students (children with poor material status, national minorities, children with special needs, etc.). | Public | 25% | 26% | 25% | 15% | 9% |
| | | Private | 15% | 26% | 28% | 17% | 14% |
| 4. | The education voucher should be available only to students who enroll in rare occupations. | Public | 39% | 29% | 20% | 8% | 4% |
| | | Private | 32% | 26% | 35% | 2% | 5% |
| 5. | Voucherization leads to greater competitiveness of private and public school institutions, thus ensuring higher quality of education in public schools. | Public | 10% | 5% | 35% | 25% | 25% |
| | | Private | 6% | 2% | 37% | 28% | 27% |
| 6. | Vouchers will contribute to increasing the number of students in private schools. | Public | 10% | 5% | 31% | 20% | 34% |
| | | Private | 2% | 2% | 39% | 20% | 37% |
| 7. | Vouchers allow young people to enroll schools that match their competencies and/or preferences. | Public | 6% | 4% | 27% | 25% | 38% |
| | | Private | 2% | 2% | 30% | 33% | 33% |
| 8. | Education vouchers lead to better co-ordination of education with the labor market. | Public | 8% | 2% | 34% | 20% | 36% |
| | | Private | 4% | 0% | 37% | 26% | 33% |
| 9. | Voucherization leads to the justified elimination of technological surplus in | Public | 8% | 5% | 30% | 32% | 25% |
| | | Private | 4% | 0% | 35% | 28% | 33% |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | schools. | | | | | | |
| 10. | The voucher system will punish bad schools/teachers and reward good schools/teachers. | Public | 8% | 5% | 30% | 26% | 31% |
| | | Private | 4% | 0% | 33% | 33% | 30% |
| 11. | Students using education vouchers will achieve better learning outcomes. | Public | 9% | 7% | 40% | 29% | 15% |
| | | Private | 9% | 7% | 43% | 15% | 26% |

Table 3 presents the views of students regarding voucherization of higher education. The results show that 41% of students studying at public higher education institutions and 46% from private higher education institutions fully agree with the claim that vouchers should be available to all students. With the claim that vouchers should be available only to the best students, only 9% of students from public higher education institutions and 7% from private ones agree. Furthermore, 9% of students from public higher education institutions and 14% of students from private higher education institutions absolutely agree with the claim that vouchers should be available only to marginalized groups of students. Most students from public (50%) and private higher education institutions (55%) agree with the claim that vouchers lead to greater competitiveness of private and public higher education institutions, thus ensuring higher quality of education. With the claim that students using vouchers will achieve better results during the studies, only 15% of students from public higher education institutions and 26% of students from private higher education institutions absolutely agree.

Table 4: Results of ANOVA tests (students) (Source: Authors research)

| Statement | The method of financing the studies | | | | |
|---|---|---|---|---|---|
| | Sum of Squares | df | Mean Square | F | Sig. |
| Students using education vouchers will achieve better learning outcomes. | 3,505 | 3 | 1,168 | 0,849 | **0,470** |
| The voucher system will punish bad schools/teachers and reward good schools/teachers. | 0,730 | 3 | 0,243 | 0,168 | **0,918** |
| Vouchers lead to better co-ordination of education with the labor market. | 1,208 | 3 | 0,403 | 0,333 | **0,801** |
| Voucherization leads to greater competitiveness of private and public school institutions, thus ensuring higher quality of education in public schools. | 2,452 | 3 | 0,817 | 0,603 | **0,614** |
| Education vouchers will contribute to increasing the number of students in private schools. | 2,129 | 3 | 0,710 | 0,577 | **0,631** |
| Education vouchers allow young people to enroll schools that match their competencies and/or preferences. | 1,085 | 3 | 0,362 | 0,281 | **0,839** |
| Voucherization leads to the justified elimination of technological surplus in schools. | 0,710 | 3 | 0,237 | 0,180 | **0,910** |

| | Country | | | | |
|---|---|---|---|---|---|
| | Sum of Squares | df | Mean Square | F | Sig. |
| Students using education vouchers will achieve better learning outcomes. | 1,931 | 2 | 0,966 | 0,701 | **0,498** |
| The voucher system will punish bad schools/teachers and reward good schools/teachers. | 0,415 | 2 | 0,208 | 0,144 | **0,866** |
| Vouchers lead to better co-ordination of education with the labor market. | 0,022 | 2 | 0,011 | 0,009 | **0,991** |
| Voucherization leads to greater competitiveness of private and public school institutions, thus ensuring higher quality of education in public schools. | 0,352 | 2 | 0,176 | 0,129 | **0,879** |
| Education vouchers will contribute to increasing the number of students in private schools. | 0,220 | 2 | 0,110 | 0,089 | **0,915** |
| Education vouchers allow young people to enroll schools that match their competencies and/or preferences. | 0,396 | 2 | 0,198 | 0,155 | **0,857** |
| Voucherization leads to the justified elimination of technological surplus in schools. | 3,239 | 2 | 1,619 | 1,259 | **0,288** |
| | Year of study | | | | |
| | Sum of Squares | df | Mean Square | F | Sig. |
| Students using education vouchers will achieve better learning outcomes. | 5,162 | 5 | 1,032 | 0,745 | **0,591** |
| The voucher system will punish bad schools/teachers and reward good schools/teachers. | 3,440 | 5 | 0,688 | 0,474 | **0,795** |
| Vouchers lead to better co-ordination of education with the labor market. | 7,266 | 5 | 1,453 | 1,233 | **0,298** |
| Voucherization leads to greater competitiveness of private and public school institutions, thus ensuring higher quality of education in public schools. | 3,734 | 5 | 0,747 | 0,546 | **0,741** |
| Education vouchers will contribute to increasing the number of students in private schools. | 3,751 | 5 | 0,750 | 0,607 | **0,695** |
| Education vouchers allow young people to enroll schools that match their competencies and/or preferences. | 1,874 | 5 | 0,375 | 0,288 | **0,919** |
| Voucherization leads to the justified elimination of technological surplus in schools. | 2,832 | 5 | 0,566 | 0,429 | **0,828** |

One-way ANOVA was also used in the measurement of student attitudes, and for testing statistical significance among the mean values of attitudes on voucherization of higher education with regard to different socio-demographic characteristics (the method of financing the studies, the country where students live, and year of their study). The results showed that in no case a statistically significant difference was found in the responses of the observed groups of subjects (significance level of 0.05).

## CONCLUSION

According to the theoretical framework of research, review of previous research, and primary research in this paper, it can be concluded that the voucherization of education is still a relatively unexplored area, not just in countries of Western Balkans, but in other world countries also. There are significant differences in previous research, which largely depend on the bias of research and countries of research. Nevertheless, researchers are showing an interest in this research field, and educational vouchers are being introduced in the world as one of the financing models for the education system.

Based on the results of the conducted research, it can be concluded that the concept of education vouchers is still unknown, both among students and among parents. The results show that students and parents are more likely to have a general model of voucherisation than a partial model, i.e. that vouchers should be available to all students, and not just to individual groups. A significant percentage of students and parents think that having vouchers would have an impact on their choices when it comes to primary and secondary school or college.

There is a positive attitude of students and parents when it comes to the effects of introducing vouchers in education in the context of the quality of educational institutions. In addition, there were no statistically significant differences in attitudes, both of parents and students, in relation to the different observed socio-demographic characteristics of the respondents.

Paper research has its limitations primarily because of the specificity of survey questionnaire that was distributed via social networks on the Internet. Also, the sample is relatively small, therefore, further research in this field is recommended, and it would be particularly interesting to conduct an experiment regarding the practical implementation of the voucher system at lower levels of government, or particular schools and other educational institutions. In addition, this study examined the views of students and parents as stakeholders of voucherization process. For a wider understanding, it is necessary to examine the attitudes of teachers as well as and the representatives of the relevant ministries of education, which are also important stakeholders for this issue.

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# INVOKING THE RESPONSIBILITY TO PROTECT: THE DEROGATION OF ITS PRINCIPLES AND IMPLEMENTATION

## Bama Andika Putra

*International Relations Department, Universitas Hasanuddin, Indonesia*
bama[at]unhas.ac.id

## Abdul Razaq Cangara

*International Relations Department, Universitas Hasanuddin, Indonesia*
acangara[at]student.unimelb.edu.au

*Abstract: The principle of the Responsibility to Protect (R2P) was unanimously endorsed in principle during the UN World Summit 2005. The principle reaffirms the state's responsibility in protecting its citizens, as well as proclaims the International responsibility to citizens. The World Summit emphasizes the importance of citizens to be protected from large-scale humanitarian crisis such as genocide, war crimes, Crimes against Humanity, and ethnic cleansing. Responsibilities to provide such protections will shift from the hands of state actors to the International community if states cannot provide the provision of the outlined protections. Since the implementation, invocations of the R2P have been rare and not implemented in cases that fulfill the criteria of the R2P principle. Such issues have led to the derogation of its principles and implementation, marked with a number of primary cases that are related to the R2P, including: (1) lack of clarity in regards to the criteria of "Crimes against Humanity", (2) prevalence of political interests that occur in the application of the "Just Cause" criteria, and (3) misinterpretation of the Responsibility to Protect. The major cases have proven disastrous, as the issue of not invoking the R2P principle, or the misapplication of the principle, have led to the humanitarian crisis felt by millions of innocent civilians located all over the globe, which urgently required external assistance and protection at that time.*

*Keywords: International Law; Responsibility to Protect; International Norm; Human Rights; United Nations*

## INTRODUCTION

The "Responsibility to Protect" (R2P) is a concept of state and international responsibility to citizens. Unanimously endorsed in principle by the international community at the UN summit 2005, the R2P consists of elements including the responsibility to prevent, react, and rebuild. These responsibilities are expected to position states to have the primary R2P its citizens from genocide, war crimes, Crimes against Humanity, and ethnic cleansing. But the failure to fulfill this responsibility, and inability to utilize assistance provided by the International community, would shift the responsibility to the international community. Recognized for his immense contribution in establishing the term Responsibility to Protect, Gareth Evans in a 2011 speech stated that: "For centuries, right up to the beginning of our own, mass atrocity crimes perpetrated behind state borders were seen primarily as nobody else's business. Now, at least in principle, they are regarded as everyone's business" (Breau S. C. 2016). Despite Evan's morally lifting speech, there have been significant doubts about the success rate of implementing the principle of R2P. This research thus aims to provide an overview of how the R2P was adopted as a UN principle, and analyzing the problems associated with the implementation of the principle itself.

## THEORETICAL FRAMEWORK

The analysis of the derogation of R2P's principle and implementation in this research will be based on a constructivist approach. As one of prominent IR theoretical grounds, it extends theorization of international norms construction, which brings international community in shared values and inter-subjectivities leading to the international cooperation to tackle issues disrupting international stability and security. It is particularly focused on the norm life cycle theory emphasizing three crucial processes comprising the norm emergence, cascade, and internalization (Crosley 2016; Finnemore and Sikkink, 1998).

In this respect, an emergence of the international norm is firstly derived from the promotion of beliefs and concerns of several Member States of international institutions towards certain values (Hibbert 2017). They are called norms entrepreneurs, who devote themselves towards norm development by relentlessly persuading other Member States in the institution to implement it. When at least one-third of them have recognized the norm, it has then achieved tipping point where it enters the stage of norm cascade, indicated by the states consciously adopt the norm and will incline to further promote and socialize it to the other states and actors in the international system. Through such a socialization process, the norm breakers would be influenced to be norm followers. At this rate, the state's compliance with the norm is promulgated by both its identities as the member of the institution and the accumulative peer pressures

in it. The last stage then is internalization, where the states internalize the norm and make it be widely accepted until it has obtained a "taken-for-granted" quality. At this phase, the automatic compliance to the norm will be in place, and it will not be longer contested. Additionally, states will also craft domestic regulations protecting and strengthening its implementation (Breau S. 2016).

In the context of R2P, it is also considered as an international norm constructed throughout the aforementioned processes of norm life cycle. Its emergence is a product of inter-subjectivities among state leaders, who shared values and significance of protecting humanities from large-scale humanitarian crisis such as war crimes, genocides, ethnic cleansing, and Crimes against Humanity. It has also passed the process of norm cascade, shown by how it was unanimously endorsed and recognized as an international norm within the UN system. However, despite those endorsements and recognition, it still faces difficulties in its internalization process, where its universality and impartiality are still questioned and problematized by the international community (Rottman, Kurtz, and Brockmeier 2014). At this juncture, it has not yet reached a "taken-for-granted" quality that could cause automatic compliance in its implementation. In this regard, the process of R2P invocation in dealing with large-scale humanitarian crises has always generated dissenting views among UN Member States.

Some of them are particularly related to how R2P sits in conflict with the UN traditional and grounded norms of sovereignty and non-intervention and with its potential politicization based on UN member state's interests. In examining these problems, this research thus analyzes that the fundamental problems lay on three points, encompassing the lack of clarity upon the concept of "Crimes against Humanity", the flexibility of the "Just Cause" criterion, and the misinterpretation of R2P. Overall, these will be further discussed in the next section (Evans and Sahnoun, 2002; Fitzsimons, 2016).

## HISTORY OF THE RESPONSIBILITY TO PROTECT

The principle of R2P was adopted by the UN based on the mere fact that the International community needed a clear and accepted norm to guide the responses during cases of mass atrocity crimes (Simeon, 2017). The severe and inconsistent responses by the International community during situations of humanitarian crisis left a huge concern by former UN Secretary-General Kofi Annan, during the late 20th century. Leading to this fact was a series of events in which the International community either failed or did not provide a sufficient response to deter the crises. There was the Rwandan tragedy where the lack of political will by the United Nations Security Council (UNSC) Member States led to the death of 5-10% of Rwanda's population in 1994 (Hintjens 1999). There was also a case of the Kosovo dilemma in 1999, in which NATO's aerial bombardment attempted to halt ethnic cleansing in Kosovo was referred as

'illegal' by the International community (Roberts, 1999), as it did not contain authorization by the UNSC (Wilson 2008). The key events mentioned above gave the International community a challenge to conceptualize a framework for intervention.

It took years of conceptual and definitional debates on principles concerning sovereignty, intervention, and responsibility, to eventually come up with the norm of R2P. Francis Deng, Former Secretary-General's Special Representative for Internally Displaced Persons in his work related to the fate of vulnerable groups like displaced populations and refugees in the late XX century (O'Donnell 2014), started to conceptualize a framework of collective security which eventually places an immense responsibility to state actors to protect its citizens from violence, in which the failure to do so would lead to the shift of responsibility to the International Community.

But what evidently led to the conception of R2P is Kofi Annan's challenge to the Millennium General Assembly in April 2000, which is reflected clearly by questioning; "If Humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica-to gross and systematic violations of human rights that offend every precept of our common humanity?" (Annan 2000). The Canadian sponsored International Commission on Intervention and State Sovereignty (ICISS) responded, by taking Kofi Annan's challenge in 2001. The ICISS report published in 2001 under the title "The Responsibility to Protect", framed the concept of state's obligation to protect its citizens from human rights catastrophes, and that the International community would have to respond if states aren't able to provide that very protection. After the introduction of the term R2P by the ICISS, the UN General Assembly officially embraced the principle at the World Summit 2005 (Bellamy and Dunne 2016).

Formally agreed nine years past, the question now lays on the implementation issues faced in implementing the principle of R2P. It is nevertheless essential to outline the major success that the R2P has resulted. The forms of R2P actions is strictly based upon the UN charter which provides the legal foundations, asserted in Chapter VI (Pacific measures), Chapter VII (coercive measures), and chapter VIII (measures collaborating with regional and sub-regional arrangements). Divided into two basic categories, a clear success is reflected in the R2P's non-coercive response in Kenya. The 2007-2008 post-election crises in Kenya eventually could be halted due to responses by mediations led by former UN Secretary-General Kofi Annan, resulting in a power-sharing between President Mwai Kibaki and Raila Odinga (Halakhe 2013).

Another successful example in the form of coercive measures upholding the R2P principle can be seen in the 2011 No-Fly Zone of Libya. The Arab Uprising that spread to areas of Libya in February 2011 is responded by pure aggression by the then leading dictator Muammar Qaddafi. Unable to control the growing rebellious movements, Muammar Qaddafi threatened to use aerial bombardment to respond to the protests.

Eventually, UNSC Resolution 1973 was passed, taking in the form of airstrikes led by the US, France, and the UK (O'Sullivan 2017). The use of R2P in the examples above is an apparent breakthrough, but still far from reaching the successful threshold as a principle.

## DEROGATION OF THE RESPONSIBILITY TO PROTECT PRINCIPLES AND IMPLEMENTATION

The underlying issue faced by the implementation of the R2P principle is the unclear crimes triggering the R2P. The vague practical framework leaves ambiguity, questioning to what extent does each criterion has to be fulfilled before action is taken. The Definition of "Crimes against Humanity", clarity of the "Just Cause" criteria of R2P actions, and the possible misapplication of the R2P principle, all leaves marks on the unclear practicality of the R2P principle. Each of the issues mentioned above leaves an immense dilemma for the International society, in regards to when intervention would be justified and not perceived subjectively as a nationalistic agenda to interfere with a country's state of affairs.

### *Lack of Clarity to the "Crimes against Humanity"*

The "Crimes against Humanity" is included as one of the four crimes that would trigger an International response. The problem that occurs is that the type of crime itself is broadly defined; take for example the ICC's Rome Statute of 2002 which describes "Crimes against Humanity" primarily including all cases of "inhumane actions" (Grover 2014). The broad scope of occurrences that can be categorized as a crime against humanity has led to subjective interpretations of what cases includes as widespread, systematic attacks that are directed to individuals or particular parts of the society. A bigger issue is how Crimes against Humanity may occur not only at times of crisis / war, as it can easily occur during times of peace. The historical basis of this term has been mainly used during the Nuremberg Trials, which was a trial that prosecuted a number of World War II officials from the Nazi Regime. The confusion to the term has proven disastrous in cases such as Myanmar Cyclone Nargis, May 2008. Known as the worst natural disaster recorded in Myanmar's history, the cyclone caused catastrophic destructions in areas such as the Labutta Township. An estimated 84.500 people were reported dead, 53.800 missing and 19.300 injured (International Federation of Red Cross and Red Crescent Societies 2011, 5). But taking aside the deaths and destructions caused by the natural disaster, the second wave of casualties were felt by the Myanmar civilians due to the lack of relief efforts, an outbreak of diseases, and failure to provide necessities of human life to the victims of the Cyclone Nargis. This second wave of catastrophe occurred when the Burmese government made it clear that it was not

about to let aid into the country (Hilpold 2014). The military junta intentionally wanted the relocations of the tribal peoples living in the cyclone hit Southern Myanmar. The state blockage conducted by the Myanmar military junta caused an International outbreak. French Foreign Minister, Bernard Kouchner proposed the invocation of the R2P, saying that a denial of access to cyclone victims deliberately caused massive suffering and even death, therefore falling under the category of Crimes Against Humanity (Borger and Mckinnon 2008). Seeing the possible humanitarian losses caused, the United Nations Security Council demanded access to the state, but anti-interventionist states in both the permanent and non-permanent seats at the council declined the proposal, which included states like China, Russia, and South Africa. This category of states believed that this was an internal matter. Therefore, no form of intervention is justified to be implemented coercively.

The dilemmatic case of the Myanmar Cyclone Nargis led to debates, prominently between UN Special Adviser to the UNSG Edward Luck claiming that R2P would not stretch to such environmental crises, and Gareth Evans, arguing that actions later after the disaster by Myanmar's military Junta, intentionally led to Crimes against Humanity (Hehir 2014). Eventually, the case of Myanmar's Cyclone Nargis reflects a derogation of the R2P principle, in which although the principle was never intended to include matters of natural disasters, civilian casualties in massive number still occurred due to national policies that have been set, leading to accumulated deaths. Galvanizing political action, as well as a unified humanitarian response, could not be realized due to the stagnated debates over whether the policies invoked is a form of "Crimes against Humanity" or not.

## The Flexibility of the "Just Cause" Criterion

A major issue with the implementation of the Responsibility to Protect is the "Just Cause" that is utilized as a criterion to justify coercive actions of military interventions. The Just Cause threshold explains that actions must be taken in cases of serious harm, which imminently likely to result in large-scale loss of life or massive ethnic cleansing. The lack of a unanimous understanding of the cases that the principle is meant to cover, especially in regards to what extent can a case be categorized as "large killings", have led the International community to again fail to respond towards the massive killings in Darfur and Sri Lanka, despite the fact that a military/ coercive action is indeed an option that could be taken. The International community failed in addressing the massive killings in Darfur since 2003 by Khartoum sponsored Janjaweed militias, with aims of crushing the pro-separatist movements of both the Justice and Equality Movement (JEM) and Sudan People's Liberation Army (SPLA) (Williamson 2009, 1-2). The Government of Sudan has been accused of oppression in Darfur, as the region demographically consists of non-Arab populations. The conflict lasted for approximately

13 years, with the Sudan President, Omar Al-Bashir, indicted for genocide, war crimes, and Crimes against Humanity by the International Criminal Court. Since the adoption of the R2P was effective starting 2005, a major question arises on what has the R2P principle contributed to relief the tensions that occurred in Darfur, Sudan. Under the "Just Cause" criterion, the outcome and events of the Darfur conflict exceed the need for interference, as targeted mass killings have occurred. Though the breakout of the conflict started in 2003 where the principle has not been concluded, the R2P principle could have been invoked starting from the year 2005 onwards.

The only response of the UN since the implementation of the R2P principle since 2005 was the UN Mission in Sudan (UNMIS), a response lacking strength and commitment to eventually end the crisis that has taken approximately 300.000 lives of the Sudanese people (Cockett 2010). This raises the question of why the R2P was not invoked meanwhile all of the set criteria have been fulfilled. But the issue then repeats itself in the case of Sri Lanka and Tamil Tigers conflict. The case of Sri Lanka and Tamil Tigers was one that caused devastating humanitarian catastrophes. Under the leadership of Mahinda Rajapaksa, the Sri Lankan Government intentionally created large-scale losses of life during Sri Lanka's destruction of The Liberation Tigers of the Tamil People (LTTE) in 2009, leading to 40.000 civilian deaths (Wright and Martin 2008). The separatist group was devoured and resulted in one of the bloodiest ethnic assassinations of the 21st century. What becomes an issue is that the case of the Tamil Tigers also fulfills the threshold of massive numbers of lives losses, therefore should easily be categorized as a "Just Cause" for R2P invocation.

The failure of the International community to address both the issues raises a concern of subjective national interests and political will to intervene in cases of humanitarian crisis. The overall failure of implementing the threshold as a basis of the R2P principle is mainly caused by the persistent lack of political will by Member States to act. There has been inconsistent support by the permanent five members of the UNSC in applying the R2P, in which the reluctance of state actors to act is mainly determined by the existence or absence of national interest in the matter. Also, difficulties of pushing an act of intervention are conceived difficult, as these P5 members will be at the forefront of contributing troops to the operation. In one way we could say that the P5 upholds and respects the principle of R2P, but at the same time, the R2P automatically is perceived as a principle with high potentials to curtail their use of the veto rights (Glanville 2014). It is hard to take unanimous decision to act if such strong political persistence exists in the decision-making process of action. For example, the lengthy discussion over intervention in Syria has resulted in two differing blocks. The US, UK, and France block have in contemporary times shown their utmost support for the very concept of intervention. On the other hand, Russia and China since the XXI century have advocated a discontent in regards to any form of intervention that would infringe and re-conceptualize the sovereignty of a state (Harris 2012).

Misinterpretation of the "Responsibility to Protect" principle has been evident in the past. Gaps in the definitions of the Responsibility to Protect have resulted in states to invoke the principle to fulfill ambitious expansionism interests. The fundamental issue here is that the principle is used as an excuse to cover up policies that are coercive, and aimed solely for national interest gains. Despite only happening once since the implementation of the R2P principle in 2005, this should be a key concern in the implementation of the principle in the foreseeable future. Russia's 2008 intervention in Georgia is a clear example of the false application of the R2P principle.

In the perspective of the Russians, R2P is defined based not only on the protection of people inside the state but further extended to the Responsibility to Protect all nationals of the state, despite being located in foreign states. This led to the Georgian invasion in 2008, claiming to protect the oppressed Ossetians and the Russians living in the area (which were also Ossetians) (Ercan 2016). The Russians in response to the Georgian aggression conducted extended military action aimed to stop what they claim as possible threats of genocide. Further to justify their actions, Russian Foreign Minister, Sergey Lavrov stated in 2008 that:

> According to our constitution, there is also a Responsibility to Protect. The term which is very widely used in the UN when people see some trouble in Africa or any remote part of the regions. This is the area, where Russian citizens live. So the Constitution of the Russian Federation, the laws of the Russian Federation makes it absolutely unavoidable for us to exercise Responsibility to Protect (The Ministry of Foreign Affairs of the Russian Federation 2018).

## CONCLUSION

The principle of "Responsibility to Protect" is still a new idea, which still fails to create and implement clear lines of the practical framework that would guide the international community on its application. This becomes a serious concern, as the UN and state actors unanimously adopted the principle of R2P, with high hopes of ending the inconsistencies of humanitarian response. Upon the application of the R2P in 2005, the Principle though became a morale lifter for global collective response to a crisis, and the principle still faces a continuous circulation of problems. The issues concerns undefined criteria, the justified extent of criteria violated before action is to be taken, and issues of national interest, all equally contributing towards the implementation issues faced in upholding the principle of "Responsibility to Protect".

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# THE BATTLE FOR REGIONAL DOMINANCE BETWEEN THE KINGDOM OF SAUDI ARABIA AND THE ISLAMIC REPUBLIC OF IRAN

## Valeri Modebadze

*St. Andrew the First-Called Georgian University of*
*The Patriarchate of Georgia, Georgia*
valery_4[at]yahoo.com

*Abstract:* *This article describes the rivalry between Iran and Saudi Arabia for achieving regional hegemony in the Middle East. Both states have an ambition to be the leader of the Islamic world and there is a constant struggle between them to dominate Middle East and spread their influence in neighboring countries. Both countries fund militant Islamic movements abroad and are engaged in fierce battle for regional dominance. After the establishment of theocratic regime in Iran, the kingdom of Saudi Arabia vehemently opposed Teheran's ambitions to export revolutions and increase its influence in the Middle East. Saudi Arabia is determined to counter the Iranian revolutionary threat and constantly opposes Teheran's ambitions to dominate the Arab World. Saudi Arabia and Iran often accuse each other of fueling sectarian violence by backing Shia and Sunni militias in Iraq, Yemen, Syria and Lebanon. Both countries try to avoid direct confrontation with each other. Instead of direct conflict, both sides fight each other indirectly and provide varying degrees of support to different camps in nearby conflicts.*

*Keywords:* *Hegemony; Iran; Saudi Arabia; Conflict; Middle East*

## INTRODUCTION

The struggle for hegemony in the Middle East is taking a new direction. The two strongest states of the region - Iran and Saudi Arabia have hegemonic ambitions and are obviously opposed to each other in a fierce struggle for regional dominance. We have witnessed the emergence of confrontation between these two states in

different countries of the Middle East – in Lebanon and Iraq, Syria and Yemen, where Saudi Arabia and Iran have conflicting military, economic and geopolitical interests.

The confrontation between Saudi Arabia and Iran can be traced back the Islamic Revolution of Iran in 1979. After the establishment of theocratic regime in Iran in 1979, Saudi Arabia was especially worried over the Iran's intentions to export revolution in neighboring countries of the Middle East and expand influence within the Persian Gulf region. Over time, Saudi Arabia became a close ally and strategic partner of the United States, whereas Iran established close ties with Russia. Relations between Iran and Saudi Arabia deteriorated since 1979. Today, the diplomatic relations between El-Riyadh and Tehran are non-existent. Diplomatic relations between the two countries were suspended, when Saudi Arabia decided to cut off diplomatic relations with Tehran after groups of protesters attacked its embassy in the capital of Iran and the consulate in the city of Mashad (Paul Dakiki 2016). Relations between Saudi Arabia and Iran worsened considerably, when 47 Shiites, including Shia religious leader Nimr al-Nimr, were executed in Saudi Arabia in January 2016. Tehran accused Saudi Arabia of religious persecution of Shiite Muslims and religious minorities. The Shia cleric Nimr al-Nimr defended the rights of Shiites in Saudi Arabia and protested against the Shiites persecution and harassment by the Saudi Arabian authorities. The Shiites constitute a minority in Saudi Arabia and form 15% of the population. The death sentence of Shiite cleric Nimr al-Nimr was followed by protest rallies in Iran. The Iranians protested against the discrimination and oppression of Shiites in Saudi Arabia and tried to burn the Embassy building of Saudi Arabia in Tehran. The situation was so strained that Saudi Arabia decided to evacuate its diplomats from Iran.

## The Struggle for Supremacy in the Middle East

The aim of the Sunni Saudi Arabia is to reduce the influence of Shia Iran in the Middle East, including Lebanon, where Iran has an allied military organization "Hezbollah" and many supporters among the Shiite population. "Hezbollah" has been controlling the Shiite populated areas in Lebanon over the last decades and has its representation in the country's legislative body. Shiites constitute approximately 40% of the population of Lebanon. Saudi Arabians believe that Lebanon's former Prime Minister Saad Hariri, who was regarded as an ally of Saudi Arabia, resigned as a result of the pressure from Hezbollah and left the post of Prime Minister.

On 4th of November 2017, in a televised statement from Saudi Arabia Saad Hariri announced his intention to resign from office, blaming Hezbollah and Iran for his resignation. He named Hezbollah's intention to assassinate him as the main reason for his resignation. After this announcement, Hariri did not return to Lebanon. The Saudi Arabian government linked the resignation of the former prime minister of Lebanon to the pressures from Hezbollah. Iran's government rejected Saad Hariri's accusations and

stated that his resignation from office was a provocative action. Iran believes that Hariri's resignation was a provocation by Saudi Arabia, which aims to increase tensions in the Middle East (Tabula 2017). Lebanon, Syria, Yemen, Iraq - these are the countries where the geopolitical interests of Saudi Arabia and Iran collide with each other. In the above mentioned countries of the Middle East Saudi Arabia and Iran have their own allies.

Relationship between Iran and Saudi Arabia deteriorated rapidly over the last years, especially when Saudi Arabia decided to punish Qatar and impose diplomatic isolation on it. On the initiative of Saudi Arabia six Arab states decided to impose a diplomatic isolation on Qatar due to its close ties with Iran. The above mentioned Arabic states of the Middle East called back their ambassadors stationed in Qatar and introduced trade bans on the country. On 5$^{th}$ of June 2017 Saudi Arabia, the United Arab Emirates, Bahrain, Mauritania, Egypt and Yemen ceased diplomatic, economic and commercial links with Qatar and accused the Qatar government of maintaining close ties with Iran and supporting "terrorism". Saudi Arabia and its allies have asked Qatar to cut close ties with Iran and shut down the Al-Jazeera TV station, which Qatar's government refused to carry out. Qatar vehemently rejected the Arab states' allegations of supporting terrorism and condemned their actions (Voanews 2017). On 24$^{th}$ of August 2017, Qatar announced that it would restore full diplomatic relations with Iran.

Saudi Arabia and Iran have been competing for decades for regional, political and religious hegemony in the Middle East. After the 2003 Iraq War, the two countries have been fighting against each other in Iraq and are still engaged in religious and sectarian conflicts. Sectarian violence escalated after the fall of Saddam Hussein's regime and the confrontation between Sunnis and Shiites is still going on in Iraq. Saudi Arabia and Iran are doing their best to increase their influence in Iraq. Iran offers financial and moral assistance to Shiites in this religious war, while Saudi Arabia supports Iraq's Sunni population and supplies them with weapons. Historically the Sunni population of Iraq always discriminated against Shia Muslims in almost every sphere of life. That's why the Shiite population of Iraq supports Iran, while the Sunnis are protected by Saudi Arabia.

## *The Conflicting Geopolitical Interests of Saudi Arabia and Iran in Syria*

After the emergence of civil war in Syria, the enmity between Saudi Arabia and Iran became even more intense. In the Syrian conflict, Iran supports Bashar al-Assad's regime. Tehran supplies it with arms, helps financially, and sends its military officials to the Syrian army. Saudi Arabia offers moral, financial and economic support to the opposition forces and tries to overthrow the Assad regime in Syria. Iran and Saudi Arabia have contradictory geopolitical interests in Syria. From the geopolitical point of view Syria is a very important country with great strategic significance. It is a bridge connecting the West to the oil rich countries of the Middle East. Syria can serve as a

transit corridor between Europe and the Arab countries. Via Syria, it is possible to establish connections with the energy reach countries of the Arab world. The West wants to reduce its energy dependence on Russia and diversify energy transportation routes. Therefore, it pays particular attention to the transportation of the Arabian energy resources to Europe through the Syrian territory (Sputnik 2016). Europe consumes 80% of the gas produced by the Russian company Gazprom. The Kremlin's goal is to maintain Russia's dominant position on the European market and become the main supplier of gas for Europe, while Western countries want to reduce energy dependence on Russia because Kremlin often uses natural resources as a political weapon. After the Russian intervention in Ukraine and the occupation of Crimea, US President Barack Obama openly called on European Union to reduce its dependence on Russian gas and try to diversify its energy resources (Charis Chang 2015). Arabic countries had plans  to construct new gas pipelines and to supply energy resources to the West via the territory of Syria, but Bashar al-Assad blocked this project because it contradicted with economic and geopolitical interests of Russia and Iran. Iran and Russia are strategic partners of Bashar al-Assad, and  this is the reason why he is against the implementation of those energy projects that could inflict financial damage on Russia and Iran. Instead of strengthening ties with Arab countries, he preferred to sign a contract with Iran. Syria remains the only Arab state in the Middle East, which maintains close ties with Iran, causing irritation in Saudi Arabia. This is the main reason why Saudi Arabia wants to end the Alawite minority rule in Syria and bring to power the representatives of the Sunni majority, which will be more loyal to the Kingdom of Saudi Arabia and Gulf countries (Sputnik 2016).

### *The sectarian conflict between Sunni and Shia Muslims in Yemen*

The conflict between the two strongest states of the Middle East - Saudi Arabia and Iran became even more intense after the start of the Civil War in Yemen. Saudi Arabia financially backed the Sunni government of Yemen, which was led by President Abd Rabuh Mansur al-Hadi. The kingdom of Saudi Arabia wants to avoid the spread of Iranian influence on the Arabian Peninsula. Iran supports the Houthi rebels, which is a Shia minority in Yemen. The Houthis fought against the Sunni-led central government and did not spare power to topple Saudi Arabia's ally - Abd Rabuh Mansur al-Hadi's regime in Yemen. Al-Hadi was captured and forced to leave the presidential palace. A month later, Abd Rabuh Mansur al-Hadi fled to his native city of Aden, where he condemned the coup d'état and declared it an anti-constitutional act. The civil war began in Yemen in 2015 between two factions - the supporters of President Saleh and Al-Hadi. Each side claims to constitute the legitimate government of Yemen. Saleh is backed by the Houthis who control the capital of Yemen and other major cities, al-Hudaydah (the largest port city on the Red Sea), Taiz (the third largest city in Yemen)

and part of Aden (the second largest city in Yemen). Houthis control strategic areas, important cities and military bases. The Sunnis control mostly the desert areas, the eastern part of Yemen. According to the UN estimates, from March 2015 to December 2017, 8670 - 13,600 people died in Yemen, including more than 5,200 civilians. The conflict has led to the world's worst humanitarian crisis.  22 million people are in need of humanitarian aid to survive. Over 8 million Yemenis are on the brink of starvation and more than one million suffer from cholera.  There are fears that the epidemic could get worse if the conflict continues (Al Jazeera News 2018).

Relations between the Islamic republic of Iran and Kingdom of Saudi Arabia deteriorated especially, when the Houthis fired missiles at one of the largest aviation bases of Saudi Arabia.  As a result of this attack they destroyed 17 bombers F16 and 9 helicopters "Apache", killed 66 and wounded 300 Soldiers. The civil war in Yemen is a sectarian conflict between the Shiites and Sunnis, which can be described also as a military confrontation between Iran and Saudi Arabia.

Saudi Arabia always claimed to be the leader of the Islamic world, but after 1979 a new challenger appeared on the world stage, when Iran was transformed into a theocratic regime. Iran's ambitions grew after the establishment of theocracy, as it had a desire to export revolution to the Gulf and increase its influence in Islamic countries. After the Islamic Revolution of 1979, Iran tries to become a leader in the Middle East, causing irritation in Saudi Arabia, which has also ambitions to achieve hegemony in the Arab World. Saudi Arabia is determined to counter Iranian revolutionary threat,  weaken Iran's positions and prevent it to strengthen its positions in the Arab world.

## CONCLUSION

The rivalry between Saudi Arabia and Iran can be compared with the confrontation between the US and the Soviet Union during the Cold War. Just like the US and the Soviet Union avoided direct conflict with each other, Saudi Arabia and Iran also try not to engage in direct fight with each other. Instead of direct conflicts, both sides fight each other indirectly and provide varying degrees of support to different camps in nearby conflicts. Unlike the Soviet Union and the United States, that opposed each other for world hegemony, Iran and Saudi Arabia do not hold the superpower status and consequently, they have no ambitions on world dominance. They fight against each other only for achieving hegemony in the Middle East (Tamar Tkemaladze 2018).

The outcome of the conflict between the Islamic Republic of Iran and the Kingdom of Saudi Arabia will have an impact on their allies' status and position in the Middle East. If Iran manages to defeat Saudi Arabia in this conflict, US positions will be weakened in the Middle East. If the opposite happens, then the United States will be able to strengthen its positions in the Middle East.

Thus, on the strategic chessboard of the Middle East world's major powers confront each other, that have their own geopolitical interests in this oil-rich region. Presumably, the rivalry between Iran and Saudi Arabia will continue for a long time. The conflict between them may turn into an open warfare. Everything will depend on the decision of the dominant states of the world, their geopolitical ambitions and their strategic interests in the Middle East.

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# THE MASS MEDIA AND VIOLENT CONFLICTS IN SUB-SAHARAN AFRICA

## Collins G. Adeyanju

*Department of Media and Communication Science,*
*University of Erfurt, Germany.*
gbadebo.adeyanju[at]uni-erfurt.de

*Abstract: Mass media have been a critical weapon of warfare since the cold war, and even more recently, the powerful intrusion of the new media: transformed the landscape in terms of reach and influence. Its role can be both constructive and deconstructive. The Rwanda genocide, armed violence in Nigeria and Kenya, and Balkan wars has questioned its roles, powers and ethical responsibilities in violent conflict circumstances. In these cases the mass media played a poisonous role. Although establishing a causal relationship between mass media and framing of opinion, emotion and beliefs that steams violent conflicts in Sub-Saharan Africa is neither linear nor clear. However, this paper underscores mass media's compelling influence on how perception in fragile armed conflict environment of Africa is developed. It is not only used as an effective propaganda machine for promoting regime defense, building resistant movement, but also transforming the political actor's parochial interest into people's interest.*

*Keywords: mass media; violent conflicts; content framing; hate speech*

## INTRODUCTION

Mass media plays sensitive role in perception and actual accounts of conflicts and wars. On one hand, the expectation is nothing short of a watchdog, to help the public filter facts from fiction, preserve the conscience of the people, and provide the information that people need in order to make rational decision among choices.

On the other hand, the media is also sensitive and help galvanize public opinion and convey same to other sections of the society (Dimitrova and Strömbäck 2008). The role of mass media in disseminating information as a matter of knowledge in human awareness can actually be both constructive for peace as well as deconstructive. The constructive aspect of mass media is grounded on the formation of reality during peace process in conflict resolution. On the other hand, the deconstructive phenomenon of mass media can be sieved by the news content causing an inevitability or probability of violence reaction among the conflicting actors (Imtihani 2014). Mass media plays key role in violence conflict situation; which may take two different and opposing forms. Either the media stay out of the conflict and are independent, hence become a critical tool for the resolution of conflict and management of violence: or it takes an active part and has responsibility for increased violence. The role of media in a given conflict, and in the stages before and after, largely depends on a complex set of variables: including relationship between the media and actors in the conflict and independence the media has to the power holders in society. Fundamentally, a strong and independent media contributes to, not just the management of violent conflicts, but retention or creation of peace and stability in conflict affected areas (Puddephatt 2006).

## THE MEDIA AND CONTEMPORARY CONFLICTS

One of the defining features of contemporary global phenomenon is violent conflicts. In the last decade, just using children as one indicator; more than two million of them have died in conflicts, over one million have been orphaned and more than six million have been seriously injured or disabled (Puddephatt 2006). A troubling dimension is the rise in the number of intra-state violent conflicts which have fundamentally compromised the welfare abilities of nation-states over its citizens; especially in Sub-Saharan Africa (SSA).

In its analyses of 59 major armed conflicts that occur since the end of Cold War, Stockholm International Peace Research Institute (SIPRI) described majority as intra-state. Owing to these prolonged conflicts, many states have effectively collapsed or rendered very fragile: not the least; induced grave human suffering, undermined rule of law, destroyed existing abysmal public services and infrastructures, displaced populations, exacerbate poverty, and consequently become burden on the international community. The Rwanda genocide and Balkans wars (leading to the break-up of Yugoslavia) have questioned roles, powers and responsibilities of the media in violent conflict circumstances. In both conflicts, the media played a poisonous role: by directly organizing and inciting genocide in the case of some Rwandan media (e.g. Radio Mille Collines (RTLM)), while some former Yugoslavia media acted as vehicle for venomous nationalism and division: more so that, the battle for hearts and minds is as all-important as the battle for territory and all warring actors aspires to control its own

media narratives. Equally, the Nazis, Fascist and the Soviet Union manipulated the media to create a hegemonic climate conducive for unchallenged exercise of power (Puddephatt 2006, 5). In the case of international media, political significance of certain conflicts sways the response of powerful states and in turns influences media's coverage of such conflict. Similarly, the extent to which the media allocate coverage preference for one conflict rather than the other shapes the awareness and early responses. The underlining factor appears to be that, the media groups pays close attention to the concerns of their domestic audience (e.g. the most powerful international media - North America and Europe), who need a point of identification (e.g. women and children suffering, religion, use of chemical weapons, etc.) in the conflict for their attention to be engaged and for coverage of such conflict to be sustained. Therefore, reportage of conflicts, if it is not within the interest of their domestic audience, the likelihood of awareness, let alone intervention is very slim. For example, a recent CNN report (Elbagir, Razek, Platt and Jones 2017), where black Africans are being auction in Libya, in 21st century would have continued, if not for the outrage from the domestic audience of the big media groups.

## THE STATE OF MASS MEDIA IN SUB-SAHARAN AFRICA

Sub-Saharan Africa is the new epicenter of change in terms of global digital divide and transformation of media use. Since the millennium, it has transformed from being largely unconnected to the internet, to having millions of people using it. Although, because media have been relatively undeveloped for several reasons, principally due to education, income and lack of access to energy (electricity); the effect of the digital changes have been more dramatic in SSA than in countries where traditional media have been much better established (Balancing Act 2014). However, the increasing amount of media available and access to the internet have created key changes leading to two kinds of Sub-Saharan Africans in terms of media and communications; "the haves" and "the have-nots": representing those living in rural Africa are at a disadvantage to their urban counterparts.

The vast majority of population in rural areas has far less access to modern media, because of the geographic distances and lack of infrastructure. Until recently, access to the Internet was an almost entirely an urban phenomenon, although a small number of rural people now have access. But, even in more developed countries by SSA standard; like South Africa, Nigeria, have only 24% and 34.8% (Statista 2015) respectively of Internet users in rural areas (where majority of the population is concentrated). Due to this shortages, government traditional media (accused of tilting narratives in conflict situation), still remains the main source for consumption of information by the rural population; hence, monopolization of media and information. In the latter half of last century (characterized by civil conflicts and where media was an instrument of warfare

in SSA), over 70% of all the mass media in Africa are state-owned; i.e. almost all radio and broadcast stations are owned by government (Wilcox 1974, 37). In Zimbabwe, as most of the SSA countries, the state-run media are direct instrument of the ruling ZANU-PF/Mugabe dynasties, constantly attacking and blackmailing the opposition as stooges of the British government and invoking racial sentiment against them.

However, in the changing socio-economic climate facilitated by more access to internet democratization in SSA, the state monopoly of mass media or information management is now a little bit curtailed. Sundry privately-owned competing newspapers and other publications now exists compare to when only one or two newspapers owned by the government or the ruling party before now. Similarly, the same also for TV and radio stations, many of them privately-owned commercial broadcaster, compare to periods where there used to be only one sycophantic state-owned radio and TV station. There is no empirical evidence yet to show if this trend had contributed to lowering violence civil conflict in the hemisphere. However, in the last two decades, there is a reversal in the magnitude of violent conflicts by half of its peak in 1993 (where 40% of SSA countries are in active wars) (Marshall 2006, 6). A remarkable trend one may say!

Radio is still the dominant mass-medium in Africa with the widest geographical reach and the highest audiences compared with TV, newspapers and other information and communication technologies.

Overall, radio is enjoying a renaissance and numbers of small local stations have proliferated over the last two decades, owing to democratization, market liberalization and also, it is the most affordable communication technology for rural Africans. Besides the negative exploitation of radio in the past for violent purposes, radio seems to have proven itself as a developmental tool, particularly with the surge of community and local radios, which have facilitated a far more participatory and horizontal type of communication than was possible with the older, centralized broadcasting models (Mary Myers 2008). According to the International Development Research Centre (IDRC), 93% of Tanzanians, 92% of Kenyans and 90% of Mozambicans own radios, vastly outnumbering people with access to internet, mobile phones and television. In both rural and urban areas, radio ownership outstrips televisions, computers and telephone ownership.

Over the past two decades, while radio use diminishes in the western societies, it's on rise in Africa. According to UNESCO, community radio use in 17 Sub-Saharan African countries grew by more than 1,386% in a six-year period between 80% and 90% of households have access to a working radio set.
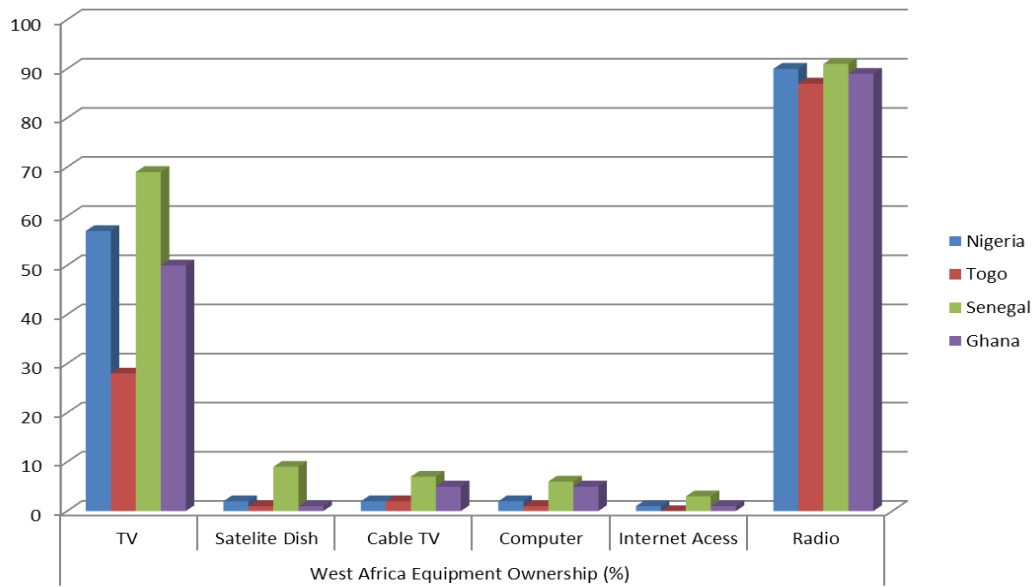
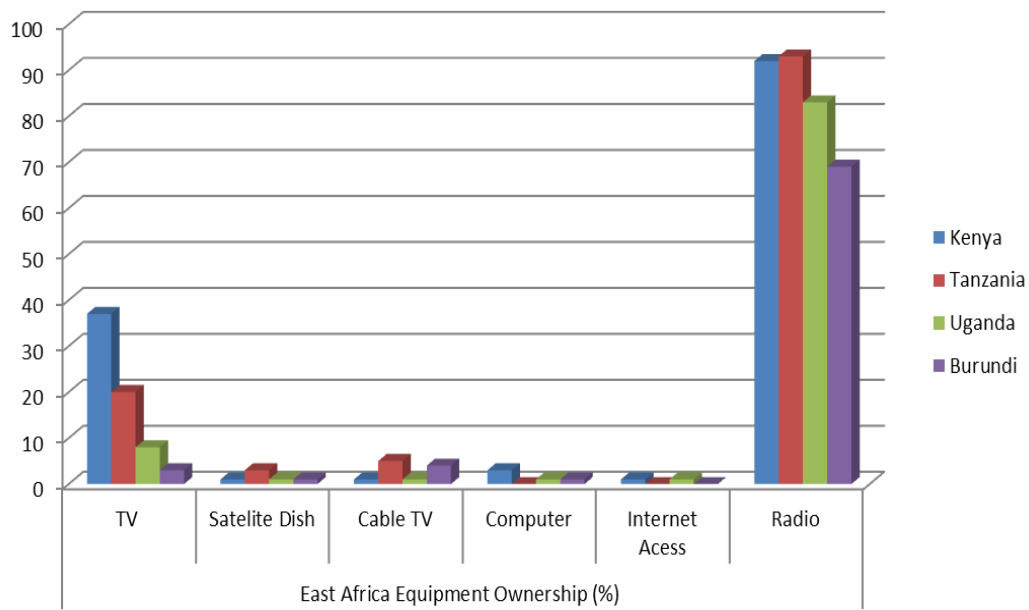Figure 1: West Africa Media Coverage (Balancing Act 2008)



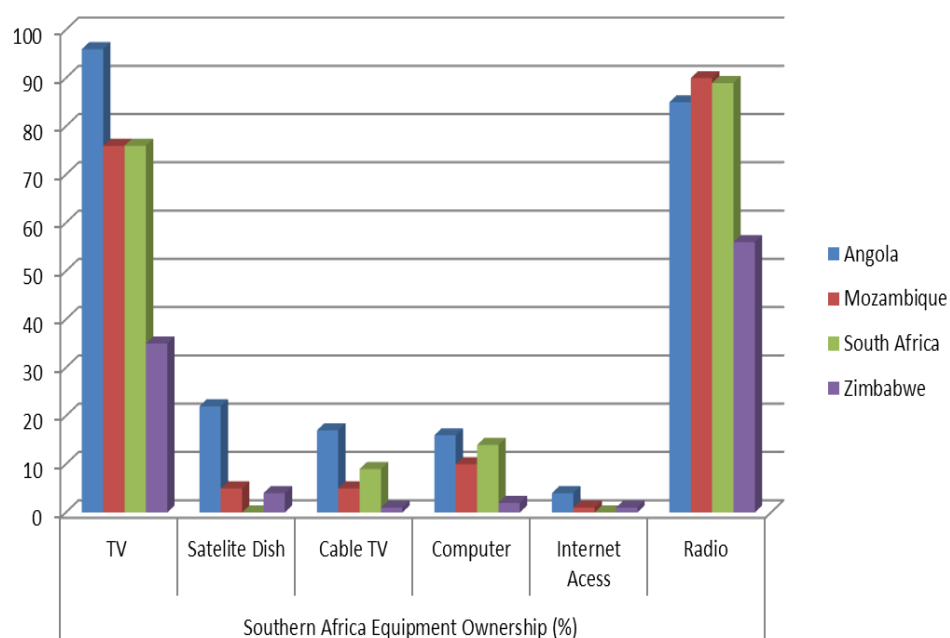Figure 2: East Africa Media Coverage (Balancing Act 2008)

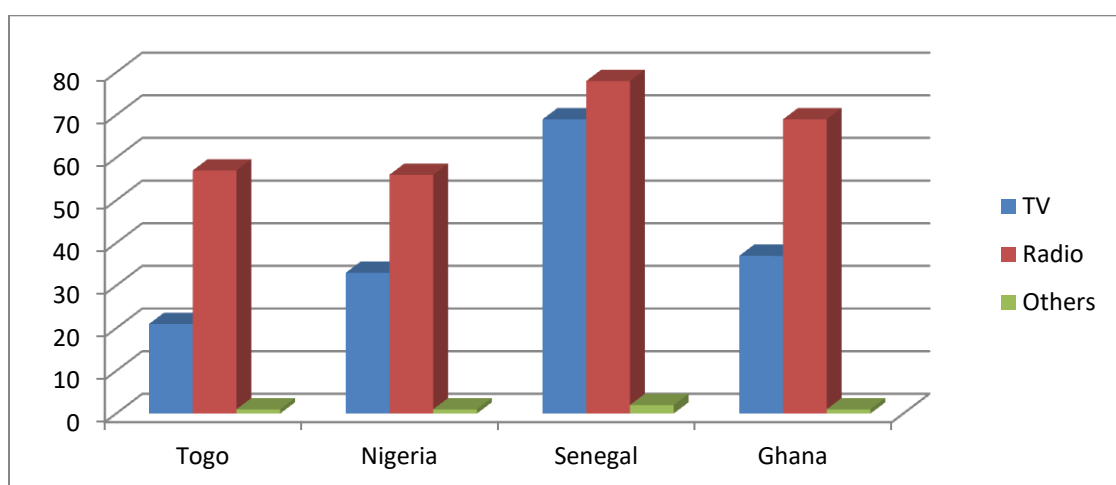Figure 3: Southern Africa Media Coverage (Balancing Act 2008)



Figure 4: Daily Media Use in Some Sub-Saharan Africa Countries (Balancing Act 2008)

## THE MASS MEDIA AS CONFLICT FACILITATOR IN SUB – SAHARAN AFRICA

Although establishing a causal relationship between radio listening, television viewing and other media on one hand and the framing of opinion, attitudes, emotion and beliefs that result most times to violent conflicts in SSA on another hand is neither linear nor clear. The predominant assumption is that mass media exerts compelling influence not only in the realm of politics, culture and economics, but also on how population develop image about phenomenon; especially in armed conflict environments. The media "provides not only information, but also conceptual frameworks within which information and opinions are ordered" (Lichtenberg 1990, 9).

In other words, mass media (especially radio and TV in SSA) had been used as weapon in the hands of warring actors or partisan states in violent conflicts, to spread favorable views, hate campaigns or mobilize society for or against others, a political agenda, their values and/or ideologies. Similarly, just like how the Western mass media (BBC, CNN, DW, etc.) influences global consciousness, so that the World Economic Order that favors the West seems natural (Musau 1999; Bourgault 1995).

The mass media in conflict environment becomes effective propaganda machine not only for promoting defense of an actor's argument, building resistant movement or army of people to challenge opposing arguments/views, but transform the actor's interest into people's interest. State actors in SSA are famous for this practice: from South Africa (apartheid), Zimbabwe (Land/white farmers), Nigeria (Biafra agitation/civil war), Rwanda (genocide), Cameroun (French/English regions dichotomy), etc. According to Joseph Goebbels: "Propaganda works best when those who are being manipulated are confident, they are acting on their own free will (Mcintyre 2018, 114). The most impactful of mass media in this respect in SSA has been the radio.

### *The Case of Rwanda Genocide*

Between April and July 1994, over 800.000 Tutsis and moderate Hutus were killed. 250.000 women became victims of sexual violence, many of whom were killed afterwards. An estimated 70% of the women who survived were infected with HIV. At the end of the 100 days of slaughter, 85% of Tutsis – totaling 10% of Rwanda's population – were killed (Amnesty International 2004). Extensive hate propaganda campaigns of the Rwandan media, exaggerating perceived historical differences between Tutsi and Hutu and spreading fears, that Hutus could once more be the victim of suppression if Tutsis were to take over control in Rwanda. The propaganda was "wholly swallowed" by Hutu peasants, who began to identify not as Rwandan, but Hutus (Guest 2004). The media such as the newspaper (Kangura), Radio Rwanda and Radio Mille Collines (RTLM), became tools of mass propaganda; portraying extreme ethnic hatred and labeling Tutsis as "the enemy".

Unfortunately, there was lack of alternative media sources. The media, especially the radio (controlled by the Hutu government) poisoned contents of information in order to create mass movement and transform ordinary people into militias. Neighbors turned against each other, friends against each other, even relatives against relatives. It is estimated that 130,000 people took actively part in the killings (Burnet 2008). The obvious question is: how such a high number of seemingly ordinary people became ruthless mass murderers and commit crimes which shock the human conscience? The attempt to answer could still be traced to Nazi Goebbels's propaganda instrument: lies when repeated well-enough creates an illusion of truth (Stafford 2016). The Radio as used in Rwanda reveals the power of mass media in creating the perception of "us" versus "them". While the seed for protracted social conflict leading to the eventual genocide was sown by several factors, however, the Rwandan Hutu-controlled media was well aware of how to use it to its advantage (Lower and Hauschildt 2014).

What made it most successful was the legitimization of Tutsi dehumanization (referred as cockroaches) and call for their extermination; similar to Nazis portrayal of the Jews. The Hutu media played pivotal role in spurring on the genocide as it occurred. RTLM in particular became an active organizer and mobilize of violence against Tutsis and moderate Hutus. McNulty (1999) described RTLM role as the "facilitator of genocide"; so much so that, Killers carries transistor radio in one hand and the other - a machete (Power 2001).

## Kenya 2007 Post Election Violence

Mobile phones were used to create disinformation and hate speech following the 2007 general elections in Kenya. False information circulated outside the mainstream media, created a cycle of ethnic violence that engulfed almost half of the country. Before official announcement of results, messages claiming that incumbent President Mwai Kibaki was using the Electoral body to rig the elections started circulating. Considering the intensity of ethnic-based politics in Kenya, coupled with an online disinformation about falsification of results to favor an ethnic group over another, the eventual results announcement further triggered widespread and systematic violence, resulting in more than 1,000 deaths and displacement of over 500,000 civilians: according to ICRtoP.

The media was used to circulate false voting process and results, in which Kenyans believed, but changed upon release of official results. This created doubt over the political system and in turns suspicion by ethnic groups. The outcome was the 2007 post-election violence.

*Biafra in Nigeria*

The recent agitation by Indigenous People of Biafra (IPOB), mainly the Igbo ethnic group, for secession from Nigeria and using Radio Biafra as vehicle for promoting hate speech in a fragile and ethnical sensitive country like Nigeria is another example of mass media being used as violent conflict facilitator. Nnamdi Kanu, the Director of Radio Biafra and leader of IPOB use the medium of Radio Biafra to inflame ethnic division and disparage the Nigerian state; calling it a "Zoo" and openly clamoring for arms donation and armed rebellion by the Igbos against other ethnic groups. According to Mr. Kanu through its radio broadcast:

> The only language that people in the Zoo understand is the language of violence and force [...] our promise is very simple. If they fail to give us Biafra, Somalia will look like a paradise compared to what will happen to that Zoo. It's a promise, it's a pledge and it's a threat [...] if they do not give us Biafra, there will be nothing living in that very zoo they call Nigeria (Nagarajan 2015).

The Radio Biafra and other social media platforms had helped the group mobilize demonstrations mainly across the south East of Nigeria: Anambra, Imo, Enugu, Abia, Delta, Cross River and Ebonyi States; some ending in fatality. One of its protests in Onitsha Anambra State, marking Biafra Day lead to 30 death and many injured. IPOB claimed over 1,000 of its members have been killed (Okoli, Nwaiwu and Ugbor, 2016).

While Radio Biafra would have taken similar dimension of RTLM in Rwanda, however, Nigeria's ethnic composition is not binary as was in the later. Also, unlike Hutus, the Igbos are not 85% of the Nigeria's population. But, similar agitation in the late 1960s resulted in death of over two million Igbos, many of whom are women and children. Therefore, using dehumanizing languages such as the "Zoo" or "Cockroaches" (as was in Rwanda) shows similar pattern of using mass medium of immense reach and power to frame messages, appeal to emotions for solidarity and eventual call to violence. In Rwanda, hate speech against Tutsi added to decades of ethnic tensions between Hutu and Tutsi, creating the conditions that enabled the genocide. An important note, this analysis is not about the Biafra secession agitation itself, but the use of mass media (Radio Biafra) as instrument for facilitating violent conflicts.

*Framing Argument*

Framing is the selection of some aspects of a perceived reality and make them more conspicuous in a communicating pattern, so as to exaggerate a particular problem and influence causal interpretation (Entman 1993). News frames that are culturally sensitive are most influential on societies and the public opinion, because they

employ words and images highly prominent in the culture, to maximize noticeability, understanding and draw intense emotion (Entman 2004). Empirical research has demonstrated that the political environment can spur different news framing of similar events (Dimitrova and Strömbäck 2008). For example, news coverage or debates in the United States about women reproductive rights, on CNN and FOX News television channels. This subject is framed differently to their audiences based on their ideological appeal (liberal versus conservative).

The same is also obtainable in violence conflict environments, where elites are promoting values of significant political interest to them: hence, the framing of news presentation constitutes the very actions that create meaning to events.

The media constitute the most important source of information about politics and conflicts for most people in SSA, giving it a considerable amount of influence over people's perceptions, opinions and behavior. That is why all parties in armed conflicts: state officials, armed rebels and other warring sides' targets exploitation of the media to foster their goals by adapting their activities to the logic of media operation (Vladisavljević 2015). During the US/NATO inversion of Libya in 2011, it was framed as 'humanitarian aid' to prevent massacre in Bengazi by Muammar Gaddafi in the mainstream US media, whereas it was framed as a 'military intervention' by Russia, China and other African countries.

As it pertains to SSA, the Rwandan conflict of 1994 is the best reference of how media framing (domestic) facilitated extreme violence. The RTLM supplied listeners, mostly peasants in rural areas, with information that promotes fear, hate and calls to dehumanize members of the minority group; thereby legitimizing violence and facilitating mobilization for genocide (Steeves 1998; Melvern 2004), including the framing of President Habyarimana's assassination as the handiwork of the Tutsis. Also, Robert Mugabe, for years, framed every opposition to his political dynasty as anti-black empowerment, anti-land redistribution agents, or pro-white; who want to return the country to the white minority influence. Media as violent conflict facilitator largely depends on its framing and agenda setting.

## MEDIA AS TOOL FOR CONFLICT MANAGEMENT AND STATE-BUILDING

The growing acknowledgement of immense role the media play in helping to fuel conflict has turned scholars towards examining how it can equally play a constructive role in conflict resolution, peace-building and state-building in Sub – Saharan Africa. The need for unfettered access to unbiased information is critical for Africa's development. Disinformation can at any stage of a conflict, make people desperate, restless and easy to manipulate (Kuusik 2010). According to President Harry Truman "You can never get all the facts from just one newspaper, and unless you have all the facts, you cannot make proper judgments about what is going on" (Colgan 2009).

For the media, it is difficult to find a balance between preventing harm caused by information and protecting individual expression. However, finding the balance is important, especially in conflict situations. Mass media and journalism must help to distribute information that counter hate-speech and foster environments of balanced opinions (Koven 2004). Responsible journalism must be truthful, balanced and carry fair account of events; without judgmental representations and embellishment of reality. The media possess ability to defuse tensions before reaching breaking points and keep a critical observation on government, opposition and society. Supply of credible information enhances reach and conflict management, and also advance democratic principles.

In most armed conflicts, parties often make overtures to draw majority of the people on "their" side, which in many occasions induces misrepresentation of facts and an attempt to seize control over the distribution of information. Therefore, the intervention of unbiased and free media is important not only for societies, but people directly affected by violent conflicts: prompting peace-promoting citizen media, media regulation to prevent incitement of violence and conflict-sensitive and peace journalism. There is no consensus on the best approach to reporting conflict in the media industry. Recent plights have sought to explore the distinction between peace journalism and conflict sensitive journalism through analyzing specific interventions on conflict reporting. The suggestion is that, appropriate approach might entail examining the professional responsibilities of media reportage in a conflict area, including:

- avoid portraying conflicts as a zero-sum game, but rather disaggregating the various interests that clash.
- It also would involve seeking to humanise both parties – making it clear that sometimes there are no simple villains and victims.
- try to look behind the positions that combatants take and identify their interests, which may create more common ground than is apparent.
- Some media organisations have argued that the very practice of good professional journalism is itself a capable conflict resolution tool.
- Strategic communication: E.g. whilst Burundi's Hutu President was also assassinated just like Rwanda, but the Burundi media worked with the UN and domestic officials to broadcast a message of calm, averting atrocities on this occasion (ICG 2001, 67; Lewis 1994; BBC News 1994).

Whether local or international, the media will constantly face considerable challenge in trying to cover conflicts; especially in SSA. Besides the inevitability of commercial or political pressure to focus on sensational or ideological, most violent or dramatic incidents, at the expense of fuelling issues that may underpin the conflict, media can be responsive by managing information that will rather de-escalated tension.

However, in order to explain conflicts in holistic manner to those affected and the external observers, the media must be able to operate freely devoid of threats and with the capacity to report on all aspects of the conflicts. Knowing the truth about a conflict is also an important way to get justice; and media can help achieve that.

Finally, the media ethics and weaponization of mass media for political, cultural or ideological gains must be visited often; especially among inexperienced local journalists, in environments recovering from long years of media suppression. Media and journalists can help to transform violent conflicts into the normal processes of peaceful politics; by reporting accurately the activities and opinions of people from different sides to a conflict. Media is a good medium for breaking down misleading and dangerous stereotypes. Local media, especially in SSA, due to the volatility of violence should develop an ethical code of practice; on how violent conflicts be covered.

## KEY CHALLENGES TO THE MEDIA IN CONFLICTS ARENA

The greatest challenge for the media in armed violent conflict environments is the enormous danger inherent therein. The Committee for the Protection of Journalists (CPJ) estimated that 1,071 journalists covering conflicts have been killed over a two and half decades (1992 – 2014) period; most of whom are not accidentally in crossfire (Tumber 2014). Majority are killed based on what they had written. CPJ data since 1992 - 2019 indicates only 23% (300) of journalists died in crossfire/combat, while 77% (1034) are murdered; often in reprisal for their reportage (CPJ n.d.).

## CONCLUSION

The mass media can be of immense assistance in conflict management and state-building. However, they are equally constrained, because, the media cannot eliminate armed conflicts altogether. The media is undoubtedly a good tool for managing conflict and diversity in SSA, but more is required than ethical and responsible reporting to ensure sustainable peace and development. Regardless of the negative role media has played in violent conflicts in SSA, the potential of the media in managing conflict and post-conflict situations remains a net positive.

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Indexing
Abstracting

# THE OMBUDSMAN RECONSTRUCTION OF THE REPUBLIC OF INDONESIA IN PROMOTING A RESPONSIVE LEGAL CULTURE

## Mansur

*Doctoral Programme Faculty of Law, University of Mataram, Indonesia*
chungsfh[at]gmail.com

## Galang Asmara

*Faculty of Law, University of Mataram, Indonesia*
galang_alkawoi[at]yahoo.com

## Idrus Abdullah

*Faculty of Law, University of Mataram, Indonesia*
idrusabdullah7[at]gmail.com

## RR. Cahyowati

*Faculty of Law, University of Mataram, Indonesia*
a.cahyowati[at]gmail.com

*Abstract:* *The aim of this research is to show how the reconstruction of the existing Ombudsman of the Republic of Indonesa influences the promotion of a responsive legal culture in the bureaucracy system. The research methods are normative and empirical, along with the philosophical approach, statute approach, conceptual approach, and direct interview in the field. Concluding the reconstruction of the Ombudsman of the Republic Indonesia to be more ideal through the review of the Law Number 37 from 2008 regarding the Ombudsman of the Republic of Indonesia including the relation to its institutional authority, and the legal force of the Ombudsman's recommendations that should be final and binding, so the recommendations have an executorial power.*

*Keywords: reconstruction; ombudsman; legal culture; responsive bureaucracy*

# INTRODUCTION

The Law reform in public services has been continually improved. It can be seen form the creation  of the Law of the Republic of Indonesia Number 37 from 2008 regarding the Ombudsman of  the Republic of Indonesia as well as the Law of the Republic of Indonesia Number 25 from 2009 regarding the Public Services (Yudianto 2015, 257). The application of public services today according to Agus Dwiyanto, besides its bureaucracy is too bureaucratic, and also has been infected by a chronic disease called "corruption" (Dwiyanto 2011, 63). Such disease appears because of the interaction between the structure of bureaucracy and some variables in wrong environment. Public services in real practice are also affected by legal culture (Mustafa 2016, 179). The Author calls it "legal culture of bureaucracy". This cannot be separated by contribution factors, such as values and local wisdom.

Amzulian Rifa'i says that in 2017 the number of complaints were 9.280 in total and consist of 4.358 (52.87%) direct complaints, 1.765 (21.46%) were conveyed by letters and 288 (3,49%) through e-mail. The above number, 3.427 complaints were about the local Government, 1.041 about the police Department, about the central government institutions were 795, and the last 17 complaints were for  House of Representatives. From the above number of complaints, only 55 recommendations have been issued : 20 of them have been executed, while 15 others were partly executed and 20 others have not been yet excuted (the Ombudsman of the Republic of Indonesia 2018).

Philosophically, the essence of bureaucracy aims are to provide public services in professional, honest and fair manners. In theoritical perspective, supervision is part of law enforcement and sanction's excution. (Ridwan HR 2006, 311) There are two types of supervision: supervision by law and supervision based on its benefits. (Ibid)  From a legal perspective, based on the  Law Number  37 from Year 2008 on the Ombudsman, there are conflicts of norm between Articles to another, conflicts of norm with other regulations, inconsistency, obscurity of norm, and absence of norm. From a sociological perspective, the Ombudsman as a supervisory body has an important meaning in society, even tough its recommendation do not have executive capacity, which is even more complicated because  there are some other institutions that have similar functions to the Ombudsmans. Conducting some review of the Law of the Republic of Indonesia Number  37 from Year 2008 might be important for the future reconstruction of the Ombudsman. It is important to create certainty of law, fairness and expediency as the Ombudsman is a supervisory institution and it has law enforcement function. This reseach is a normative and empiric reseach. It is supported by data that obtained from the Ombudsman of the Republic of Indonesia. Other than that, the analysis of this research is based on data obtained from the Ombudsman of the Republic of Indonesia, West Nusa Tenggara branch office. The issue is how to reconstruct the Ombudsman of the Republic of Indonesesia in promoting a responsive legal culture of bureaucracy.

ANALYSIS AND DISCUSSION

*Reconstructing Regulations regarding the Ombudsman of the Republic of Indonesia*

The existence of the Ombudsman of the Republic Indonesia that have supervisory function in the consitutional system, this can be seen in Article 1 of the Law of the Republic of Indonesia Number 37 from 2008, which says:

> The Ombudsman of the Republic of Indonesia is a public institution that has the authority to supervise public services conducted by public institutions and the governement including the Government-owned companies, local government-owned corporation, public institutions and private institutions or persons whose given duties are provide public services and whose whole or some of their budget resources are from the central budget or from a local government's budget.

The Ombudsman of the Repulic of Indonesia as public services supervisor is not only to perform their duties based on Law Number 37 from 2008 on the Ombudsman, but also to refer Law Number 25 from 2009 on Public Services. The Article 5 of the Law Number 25 from 2009 on Public Services stated that the services provided as public goods and public services including adminstrative services are regulated by Laws. The scope includes: education, jobs and trading, settlement, communication and information, environment, health, social ensurance, energy, banking, transportation, natural resources, tourism, and other sectors.

Dwi Ari Santoso, a reseacher at the Solidarity Society for Transparency (SOMASI) of West Nusa Tenggara, in order to response education problems in West Nusa Tenggara, stated that:

> The Government has to be available in order to apply and fulfill constitution's mandate, where people have a right to have proper information, illegal transactions in the Governement, illegal levies at school with the schools committee as a cover often becomes discussion of students' parents every time they enroll for in the best school. These kind of stories are uncovered by mass media, that is why regulations regarding transparency of public information is important to be appplied as well as the important of parents' role that represent society engagement especially to make a complaint regarding the student's attitude as a part of the supervision process (Santoso 2018, 7).

As a legitimate supervision body, the Ombudsman is authorised as a supervising president in the process of running his/her administration. However, in Article 38 paragraph (4) regulate that "in case the reported and the superiors of the reported officials fdo not obey or only partly obey the recommendations with

unaccepted reasons by the Ombudsman, the Ombusdman has right to release it to the public and make a report to the House of Representative or to the President". In the execution of its recommendation, the Ombudsman of the Republic of Indonesa takes a persuasive approach which contributes to ineffective process of recommendations' executions by public officials.

Moreover, there is an absence of norm in the dispute resolution processes, which is the adjudication function; as stated in Article 1 number 11, Article 40 paragraph (1), Article 46 paragraph (4), Article 68 paragraph (2) Law Number 25 from 2009, the Ombudsman is given authority to use the adjudication process. From this matters, the author provides the following solutions :

- A clear limitation in relation to the regulation regarding the definition of legal subjects, state administration, state-owned companies including persons who are involved in the public services regarding their budget resources. For example, an Article which says "a public services officials is every legal subject that perform public services, including public goods, public services and public administration that are performed by public officials and private sectors according to the law". In regards to the number of public service types, the Ombudsman might better divided into some Ombudsman sub-groups based on their characteristics that they are supervising. For example, the Ombudsman that handles basic services (e.g. health and education), the Ombudsman that handles general public administration and Ombudsman that handles the higher education (universities). Another option is that the Ombudsman division could be harmonized with the Law Number 25 from 2009, where it could be divided into: Ombudsman that supervise public goods, public sevices and public administration.

- Re-map independent public institutions that have similar functions with the Ombudsman, which are supervisory institutions and settlement making institutions for people's complaints as a result of maladminstration within the public services. Based on the re-map such institutions are integrated within the Ombudsman of the Republic of Indonesia including the Public Information Commission, the Public Services Commission. This way, the administration matters might be positively simplified because there is no need of coordination among the institutions, no conflicts of authority, budget minimisation, and no more confiusion in the society about to which instituiton they should convey their complaints.

- Regulation regarding the execution of sanctions that a reported or a superior of the reported officials. Once a sanction is not obeyed, the Ombudsman is makes a report to the House of Representative and the President.

J.B.J.M Ten Berge stated that sanctions are the core of the administrative law enforcement. However, in principle, the sanction are implemented in administrative law without the judge's role, but in several terms there is an admnistrative sanction through judicial process (Phillipus M. Hadjon in Ridwan HR 2006, 311).

The Ombudsman as a public institution that has supervisory functions, the scope is public law (state administration law). According to Ten Berge, the enforcement not only limited to administrative sanctions, but also to sanction that result from judicial processes, and not only accepting complaints and giving recommendations as mentioned in Article 35 letter (b) Law Number 37 from Year 2008 on the Ombudsman.

Besides the inconsistency and obscurity of norms, the final outcomes of a maladminstration feedback are recommendations, that are then are conveyed to the reported or the superior of the reported officials. The word "obligation" in Article 38 paragraph (1) Law Number 37 from 2008 means that the reported or th superior of the officials are obliged to carry out the recommendations.

If the obligated subjects are not doing so, the Article 39 says: "the reported and the superior of the reported officials who do not perform the recommendations as mentioned in Article 38 paragraph (1), paragraph (2), or paragraph (4) are given an administrative punishment according to the regulations". Administrative punishment is mentioned in Article 54 to Article 58 of The Law of the Republic of Indonesia Number 25 from 2009. The same intention also acommodated i.e in the Article 351 paragraph (4), and paragraph (5) Law Number 23 from 2014 on the Local Government. The core of the Article is that the head of local government is obligated to perform the Ombudsman's recommendations; if the reported officials do not implement it, they will be given a coaching regarding governance.

Therefore, "obligation" in this matter means order to do something. On the one hand, a recommendation is a law order which has executorial power. However, some argue that it could be interpeted as an obligation of political and moral dimensions, in other words, recommendations are interpreted as a suggestion or advice, where there are no legal consequences if we do not obey them. The following table shows how the Ombudsman takes a persuasssive approach to force its recommendations.

Table 1: Legal System (Structure, Substance and Legal Culture)

| Substance | Structure | Legal Culture |
|---|---|---|
| Article 38 paragraph (3) Law Number  37 Year 2008 which stated that : "The superior of the reported officials is obligated to make a report to the Ombudsman in regards to the recomendation's execution along with examination's result within 60 days from the day when the recommendations were accepted. | Article 2 The Law Number  37 Year 2008 which stated that : the Ombudsman is an independent public institution and it has no structural connections to other public institutions, and there is no intervention of other power in doing its duties. | Article 44 paragraph (3) Ombudsman Regulation of Regulation Number 002 Year 2009 regarding the Procedure of Examination and Settelement of Complaints which stated that : the Ombudsman takes a persuasive approach enforcing the recommendations |

Based on the above table, this is why the reconstruction of the sanction enforcement is important. The expected reconstruction of the Ombudsman Law, the author suggested:

- First, to add the  Ombudsman's task in the Article 7 Law Number 37 from 2008 which primarily consist of  letter (a) to (g). Letter (i)  states: "perform special adjudication to processed public services among parties, decided by the Ombudsman". The formulation of letter (j): "in terms of special adjudication performance, the Ombudsman can be aided by third parties, in the elements of the local institutions based on the local knowledge in each region".

- Second, adding 1 paragraph in the Article 37 which primarily consist of 3 paragraphs. The formulation of the paragraph (4): "within 90 days, if the superior of the reported officials is not implemeting the recommendations, the Ombudsman can convey the recommendation to the district court  to get a final and binding court decision".

- Third, to add two paragraphs in the Article 38 Law Number 37 from 2008 i.e are paragraph (5) and paragraph (6). The formulation of paragraph (5) is: "if the superior of the reported officials does not perform or just partly performs the recommendations, he/she will be punish by a higher supperior where the highest superior is Minister of Public Servant Empowerment, except public servants of a local government". And the formulation of paragraph (6) is: "the superior of the reported officilas from a corporation, private sectors or individuals who are do

not perform or partlly perform the Ombudsman's recommendation will be sanctioned by public officials who is authorised to issue their operational permits".

- The reason behind 90 days is in line with the expiration date of an "adminstrative decision" after which a lawsuit can be filed in an administrative court
- It is important to regulate the adjudication process of the Ombudsman of the Republic of Indonesia

## *Legal Culture based on "Pancasila" towards the restoration of the National Legal System*

The society has a vital role in the legal system. An individual takes a role as determined by law. In reality it is not only determined by the legal system, but also by presumption and common sense. As a result, it is philosophically expected that recommendations of the Ombudsman of the Republic of Indonesia are legally binding because of the values within. Such values are obtained from the living culture amid the society.

To improve the legal awarness in the society, it could be extracted from the cultural values that are still embedded amid Indonesian people, which worked positivelly as a spirit of development, including the development in the public services. For example, the values of the Sasak Tribe in Lombok, West Nusa Tenggara Province are known as "Patut, Patuh, Pacu", which means "proper, obedient, and diciplined" (Arzaki 2001, 9).

## *Legal Enforcement and Strenghtening of the Society's Legal Culture in the Promotion of Bureaucratic Legal Culture*

The public services conducted by bureaucracy have to be based on law. Ludwig Von Bertalanffy says: "Systems are complexes of elements in mutual interaction, to which certain law can be applied" (Rasjidi and Putra 2003, 82). It is hard to deny the belief that persuasive attitude of the Ombudsman has affected the ignorance from the government officials to admit and execute the Ombudsman's recommendations.

To see the awarness about the legal culture of government officials that may receive a complaint, we can have a look at see it from Chambliss and Robert Seidman's theory; there are three guides i.e the *rule making institutions*, the *rule sanction institutions*, and the *role occupant*. Bureacracy as a public servant would work to give public services responsivelly and can be hindered from corruption, collusion and nepotism (Rahardjo 2009, 28).
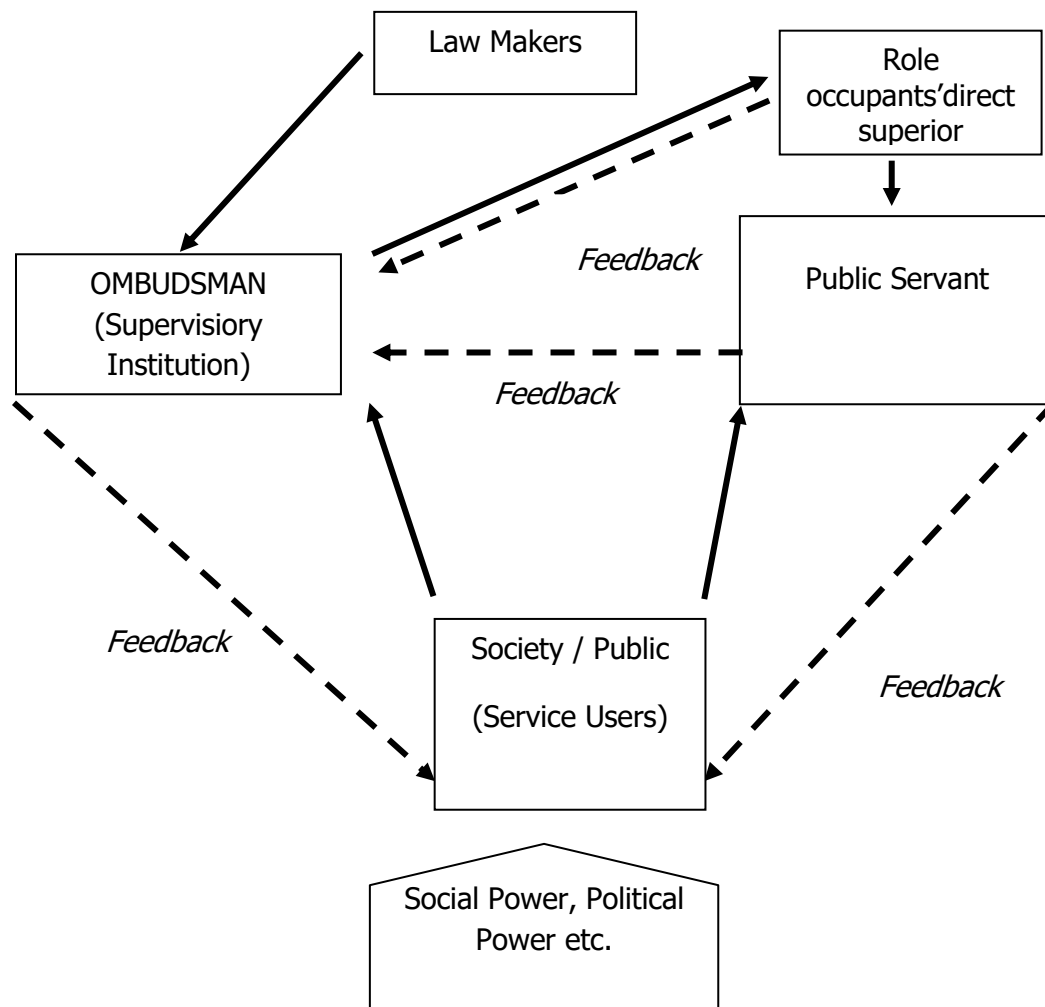
Figure 1: Collective Bureaucracy's Legal Culture to achieve responsive and free from corruption, collusion and nepotism of public services (Collected by primary legal sources while conducting this research).

Above describes the feedback or the results from the combinations of legal positions, duties, functions and the authority of the Ombudsman of the Republic of Indonesia. Such result would be considered a succes if the Ombudsman consistently becomes a supervisory institutions within the public services.

The existence of togetherness of active stakeholders and the response on the importance of good public services could be achieved if all of the stakeholders actively play their role based on law and regulations. Adhar Hakim argues are some efforts to promote the legal culture of bureaucracy such as socialization of regulations, therefore encouraging social engagement as a prevention act from maladminitration behaviour (Hakim 2018).

Others effors are: accepting peoples complaints and going to the field, especially to the areas that have high potential maladministration to be happening, and examining the obedience of the officials based on The Law of the Republic of Indonesia Number 25 2009 regarding Public Services.

*Social Engagement and Strenghtening the Legal Culture of the Society In the Field of Public Services*

Public services will be successfully performed if social engagement is in place. That also includes every stakeholder such as the civil servants, the society, professional groups and others. They all have a role when it comes to public services. Alvien Lie, Commisioner of the Ombudsman of the Republic of Indonesia, says:

The low level of knowledge (about the Ombudsman) is an obstacle for the Ombudsman in the settlement process of any case, because society's engagement is essential. Our obstacle is that the people's knowledge about the Ombudsman is low. If the existance of the Ombudsman is unknown by the society, the society will not be able to enjoy the existence of the Ombudsman. The existence of the Ombudsman is questionable if people do not take its benefits (Lie 2018) .

The participation mentioned is from planning to the evaluation. It is divided into four steps: 1) decision, 2) implementation, 3) advantages, and 4) evaluation.

## CONCLUSION

The reconstruction of the Ombudsman of the Republic of Indonesia can be seen from four aspects: (1) the substance of the regulations' review as part of the Law of the Republic of Indonesia Number 37 from 2008 reconstruction process, which includes: it is important to make a clear limitation of the Ombudsman's authority as well as the important of dividing the Ombudsman, a clear regulation regarding the adjudication process, the engagement of local / local society's institutions in mediation, consiliation and adjudication processes. Antoher important aspect is that the Ombudsman's recommendations should be final and binding, so that the Ombudsman's recommendation has an executorial power. It is also important to intergrate other supervisory institutions; (2) Law enforcement and strengthening legal culture within society in order to promote the legal culture of bureaucracy in the context of public services; (3) Law enforcement and strengthening the legal culture within society by encouraging every role occupant to engage based on their roles in order to promote a responsive legal culture of bureaucracy, which is bounded with every component (collectivity of law).

This research recommends reconstructing the Law of the Republic of Indonesia Number 37 from 2008 by submitting the legal draft to the House of Representative, as well as the important of human resources and the adequate budget.

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Indexing
Abstracting

# STRENGTHENING THE POSITION AND FUNCTION OF THE JUDICIAL COMMISSION IN THE CONSTITUTIONAL SYSTEM OF THE REPUBLIC OF INDONESIA

## Imran

*Islamic Court of Central Lombok Regency, Indonesia*
imranrusyadi585[at]gmail.com


## Huala Adolf

*Faculty of Law, Padjadjaran University, Indonesia*
huala.adolf[at]unpar.ac.id


## Gatot Dwi Hendro

*Faculty of Law, University of Mataram, Indonesia*
gatot_dh_wibowo[at]yahoo.co.id


## RR. Cahyowati

*Faculty of Law, University of Mataram, Indonesia*
a.cahyowati[at]gmail.com

*Abstract: This paper aims to analyze the position of the Judicial Commission in the constitutional system according to the Constitution of the Republic of Indonesia from 1945. This research is normative, legal research, with historical and philosophical approaches. The research results showed that the position of the Judicial Commission in the Indonesian constitutional system is a state institution that has the same position as other high institutions. The existence of the Judicial Commission in the judicial authority system is an auxiliary and supporting body that promotes the implementation of the judicial power to uphold the law and justice carried out by the Judicial Commission and the Supreme Court. Thus, the Judicial Commission is not an institution that runs judicial power, but a state institution that assists the implementation of judicial power by the Supreme Court and the Constitutional Court of Indonesia.*

*Keywords: the judicial commission; Indonesia; constitution; system*

## INTRODUCTION

A characteristic of the legal state is the existence of a justice system that upholds the freedom of justice, impartiality, freedom of duty and independence. Justice that meets the expectations of the community is a reflection of the right legal principles in order to meet the demands and expectations of justice seekers (Mahfud 2007, 214).The main factor in realizing this expectation is the high integrity of the judge. The judges' role is important in upholding law and justice in the Indonesian judicial council (Ashiddiqie 2006, 1).

The fundamental problem within the law enforcement in Indonesia is the loss of public trust in law enforcement agencies; in these case the judges as forerunners in the judiciary (Zen 2007, 1). The judges' behavior tends to gain personal profit in cases that are handled in various ways and opportunities by abusing the assumed position. The authority of the judiciary is largely determined by the extent to which the attitudes and behavior of the judges both on and outside the role duty.

The reform movement in 1998 marked the end of the despotic new order system of government power and the beginning of a new order of nationalism in a clear and directed democracy. One of the reform assertions was the amendment to the Indonesian Constitution, which is the Constitution of the Republic of Indonesia from 1945, as the basic foundation in the life of the Indonesian nation. The Constitution of the Republic of Indonesia from 1945 so far has been considered as a very sacred matter, so that no one dares to change the provisions therein; anyone who dares to oppose it will be considered as a traitor.

The presence of the Judicial Commission in the Indonesian constitutional system after the amendment of the Constitution of the Republic of Indonesia from 1945 brings a new direction in the nation's journey, especially in the field of Judiciary (Manan 1995, 56). It presents to protect and enforce the code of ethics and behavior and also the dignity of Indonesian judges. The idea of forming the Judicial Commission had actually existed since 1968, starting from an idea of a Judicial Research Consideration Council, hereinafter abbreviated as JRCC, which serves to provide consideration in making final decisions regarding suggestions or proposals relating to the appointment, promotion, moving house, dismissal and actions/ penalty for the judges. However, these ideas were failed to be included in the Law of Judicial Power.

Talking about the Judicial Commission, it cannot be separated from the existence of the Supreme Court as the last bastion for justice seekers. The Supreme Court included elements of the judges as subjects of law enforcement and justice perpetrators, while the Judicial Commission represents as a counterweight; in this case the Judicial Commission had the tasks given by the Constitution to maintain and uphold the honor, dignity and behavior of Indonesian judges (Syahuri 2011, 28).

This judicial power is very strong in the context of law enforcement and justice as in the provisions of the Law relating to the process of carrying out law and justice.

Furthermore, Judicial Commission is an independent institution that has the authority to propose the appointment of Supreme Court judges and has other power in order to maintain and uphold the honor, dignity and behavior of the judges. It was formed to uphold the dignity and the behavior of judges. In this case, the Judicial Commission acts as a supervisor. In relation to the function of the Judicial Commission, it is necessary to carry out innovations that are oriented towards the clean and commanding judiciary to ensure the society and that justice seekers are treated fairly in the process of obtaining justice in accordance with the prevailing laws and regulations.

This type of research is a normative legal research that is also called a doctrinal research. A normative law research puts law as a norm building system. The norm system includes principles, norms, rules of law and regulations, court decisions, agreements and doctrines (teachings) (Fajar and Achmad 2013, 34). Marzuki stated that a normative legal research is a process to find a rule of law, legal principles, as well as legal doctrines that answer legal problems. Normative legal research was conducted to produce new arguments, theories or concepts as prescriptions in solving the faced problems (Marzuki 2005, 35). The approaches used in the study were legislation, philosophical and historical approaches.

## ANALYSIS AND DISCUSSION

After the Constitution of the Republic of Indonesia from 1945 has been amended the judicial authorities, in this case the Supreme Court and other judicial bodies, were no longer the only judicial power perpetrators, however there were other judicial powers that stood alone outside the Supreme Court but were equal in their position, which is the Constitutional Court (Abdullah 2008, 23).

The Constitution of the Republic of Indonesia from 1945 has changed four times and it implicates on the Indonesian constitutional system. One of these changes regarding the state institutional system, such as the Judicial Commission. The result from the third amendment Article 24B on the Constitution of the Republic of Indonesia from 1945 affirms the idea of establishing the Judicial Commission as a new constitutional institution in the Indonesian constitutional system, which is similar in position to other state institutions.

In the annual session of the People's Consultative Assembly, Republic of Indonesia Year 2001, it discussed the third amendment to the Constitution from 1945 of the Republic of Indonesia thereby addressing the demands of judicial reforms, which finally agreed on several changes and discussion of articles relating to judicial power, including a Judicial Commission that has the authority to propose the appointment of supreme justices and has other authorities in order to maintain and uphold the honor,

dignity and behavior of the judges (Ashiddiqie 2005, 67-78). The Article 24 of the Constitution of the Republic of Indonesia from 1945 stated that: "Judicial power is an independent power to hold a judiciary in order to enforce law and justice". This article explains that the power of the judiciary is a very independent power from various interests of other powers, free from intervention, and putting the law as commander (Ashiddiqie 2006, 34-36).

The functions of Judicial Commission are to propose, maintain, and observe the spirit and integrity of judges whose powers are given through the Law on Judicial Commission, while the Constitutional Court adjudicates disputes as in Law Number 24 from Year 2003 concerning the Constitutional Court.

The amendment to the Constitution of the Republic of Indonesia from 1945 brought changes to the Indonesian constitutional system, especially in judicial powers, which include the existence of new institutions such as the Constitutional Court and the Judicial Commission. The establishment of the Judicial Commission is one of the concrete manifestation needs for a balance among the state institutions, especially in the area of judicial power between the Supreme Court and the Judicial Commission (Rani 2002, 13).

In an effort to strengthen the free and independent judicial power in accordance with the reform demands in the field of law, various attempts have been made to change Law Number 14 from Year 1970 concerning the Principles of Judicial Power. Furthermore, on January 15, 2004, the Law Number 48 Year 2009 concerning Judicial Power was born. The presence of this new law marks the historical tool for laying judicial powers, especially to judicial policies, both concerning one-roof system under the authority of the Supreme Court of the Republic of Indonesia.

The way to strengthen a right judicial power system is the existence of other Supreme Court institution level that has the same position as in the Indonesian constitutional system, namely the Judicial Commission. The presence of the Judicial Commission is necessary in the context of monitoring the administrators of judicial power. The history of the Judicial Commission's birth is evidenced by the check and balance, so that in a particular institution there must be supervision other than internal supervision, which is external supervision.

The history of the Indonesian constitution noted a new history with the issuance of the Constitutional Court decision on August 16, 2006, Number 005 / PUU-IV / 2006, regarding the authority to uphold honor and dignity and maintain the behavior of the judges, no longer owned by the Judicial Commission (Sumitro 1983, 24). The Judicial Commission no longer have the authority over the behavior of the judges, submitting proposals for imposing doubt on judges, proposing awards for judges for their achievements and services, especially for constitutional justices. All of them were returned to their respective institutions to oversee the behavior of the judges, who had not been operating properly.

The Judicial Commission is an independent institution regulated with the third amendment of the Constitution of the Republic of Indonesia from 1945 included in Chapter IX concerning the Judicial Power. Nevertheless, even though the Judicial Commission was inserted in the chapter that arranged judicial power, it is not an executor of judicial power, yet it functions relating to judicial power as stated in Article Number 24B paragraph (1) of the Constitution of the Republic of Indonesia from 1945. The Judicial Commission has the authority to propose an appointment of a Supreme Court Judge and other power in order to maintain and uphold the honor, dignity, and behavior of the judges.

The place of the Judicial Commission in the Indonesian constitution falls into high institutions that are as high as the presidential level and are not special government institutions or auxiliary state institutions. Thus, the Judicial Commission's status is not the same as, for example, the Commission of General Elections, the Commission of National Human Rights, the Women's National Commission, the Commission on State Wealth, the Commission on Business Competition Supervisory, the National Law Commission, the Truth and Reconciliation Commission, the Corruption Eradication Commission, the Commission of National Police, the Constitutional Commission, the Indonesian Broadcasting Commission, and the Child Protection Commission, since there are some reasons as follows:

- The Judicial Commission's authority was granted directly by the Constitution of the Republic of Indonesia from 1945 through the Article Number 24B;
- Obviously and without any doubt, the Judicial Commission is part of judicature powers according to the arrangement in chapter IX of the Judicial Power contained in the Constitution of the Republic of Indonesia from 1945.

From the above discussions, it is clear that the position of the Judicial Commission serves as a state institution where its authority is determined by the Constitution of the Republic of Indonesia from 1945. In the Article 24B paragraph (1) and (2), the Judicial Commission has similar relations with other state institutions such as the Constitutional Court, the Supreme Court, the President, the People's Consultative Assembly, and the House of Representatives. As a state institution whose authority is determined by the Constitution, the Judicial Commission has the right to strengthen its position in the constitutional system of the Republic of Indonesia, so that this position can build a professional institution without intervention by others.

The relationship that exists between these institutions is a pattern of functional and non-structural relations, which distinguishes the pattern of functional and structural relations no instrumental relations but running based on the functions of each institution where the constitutional conception now represents the construction of check and balance, which means there is a function of control and balancing in the state institutions (Widiarto 2006, 19).

After the amendment of the Constitution of the Republic of Indonesia from 1945, the existence of the Judicial Commission is constitutionally very legitimate since it is located in one house with the judicial institution in warranty of the Article Number 24B of the Constitution of the Republic of Indonesia from 1945.

## CONCLUSION

In the Indonesian Constitutional system, the Judicial Commission is on the same level as other high institutions such as the President, the People's Consultative Assembly, the House of Representatives, the Regional Representative Board, the Supreme Audit Agency, the Supreme Court, and the Constitutional Court. Its existence in the judicial power system serves as a supporting body that supports the implementation of an independent judicial power to enforce law and justice carried out by the Judicial Commission and the Supreme Court. Therefore, the Judicial Commission is not an institution that runs judicial power, yet a state institution that assists the implementation of judicial power by the Supreme Court and the Constitutional Court.

The People's Consultative Assembly of the Republic of Indonesia should then make changes to the provisions regarding the Judicial Commission in the Constitution of the Republic of Indonesia from 1945. Provisions regarding the Judicial Commission in Article Number 24B of the Constitution Law of the Republic of Indonesia from 1945 in the Chapter of Judicial Power are modified in a separate chapter entitled Judicial Commission. This can strengthen the Judicial Commission's authority to organize the judiciary and maintain the professionalism of the judges in Indonesia.

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Abstracting

# THE UNITED NATIONS LEADERSHIP ROLE IN SOLVING THE WESTERN SAHARA CONFLICT: PROGRESS OR DELAYS FOR PEACE?

## Yasmine Hasnaoui

*Center for Doctoral Studies, University of Mohamed V, Rabat, Morocco*

hasnaouielyasmine[at]gmail.com

*Abstract: This paper evaluates the United Nations' (UN) involvement and efforts in Western Sahara, and assesses its perceived effectiveness in settling this conflict in the post-Cold War international order. The dispute in Western Sahara is the most protracted conflict in the history of the UN. Its settlement would provide a crucial platform for the progress of other unresolved conflicts under UN auspices. As a mediator and an intervening party, the UN has played a major role in the dispute, especially since the establishment of the UN Mission for Western Sahara, MINURSO. After outlining the history of the Western Sahara conflict, this paper elucidates the stages the UN has managed therein, and clarifies the reasons and motives behind the deadlock in the Sahara. The UN's efforts are evaluated, and the negotiating perspectives of the concerned parties in the conflict and role of Algeria, which considers itself not formally part of the conflict despite its role in preserving the current impasse, analyzed.*

*Keywords: United Nations; Western Sahara; Morocco; resolution; Algeria*

## INTRODUCTION

### Historical and Political Context: Origins and Development of the Western Sahara Conflict

Western Sahara is a territory in North Africa bordered by Algeria, Mauritania, and Morocco. Formerly a Spanish colony known as Spanish Sahara, the area is characterized by an historical and on-going territorial conflict between the Kingdom of

Morocco and Sahrawi rebel movement Polisario (the Frente Popular de Liberación de Saguía el Hamra y Río de Oro), which is backed by Algeria. A dispute marked by colonization, decolonization, invasion, and an intermittent political stalemate has given rise to "one of the longest, most intractable conflicts in Africa" (Munday 2009, 115-122).

Historically, many Moroccan dynasties have ruled in Western Sahara for almost a thousand years. The first dynasty that ruled over the Sahara was the Almoravid starting in 1060 A.D. (Jensen 2005). Under the rule of Yusuf Ibn Tashfin, the Almoravid Dynasty governed large areas in Northern Africa and Southern Europe (Almoravids 2014). These areas comprised what is currently known as Western Sahara and most of southern Spain. Control over the Moroccan territory shifted from one dynasty to another over the years. Each dynasty that took over Morocco controlled various territories according to the power it held (Jensen 2005, 23).

By the XVII century, Moulay Ismail, an Alaouite sultan, took over a large territory through his victorious expeditions in the Sahara (Jensen 2005, 22). When Moulay Ismail died in 1727, fighting between his sons left Morocco divided for decades, and power over the large territory became intermittent (Jensen 2005, 22). The Moroccan territory was split into Bled Makhzen, lands ruled by the Sultan where he had religious and political sovereignty, and Bled Siba, where the Sultan had religious sovereignty but no political control (Hodges 1984, 25).

## Foreign Protectorates in Western Sahara

In 1884, Spain, a latecomer to the colonial scramble for Africa, seized Western Sahara. Local tribes refused to accept this territorial claim, instead choosing to engage in a 50-year fight against the colonial power for control of the land. After Morocco won independence of its northern territory in 1956, Spain maintained control over the coastal region of the country known as Western Sahara. June and July 1956 marked the start of the Morocco Liberation Army's (MLA) actions and two major Saharan tribes—Tekna and Reguibat—against Spanish rule to have Western Sahara reintegrated into Morocco (Attillio 1972, 195-205).

In February 1957, the MLA launched its attack against the French posts. The Spaniards and their supporters were defeated, and their installations and garrisons destroyed. In February 1958, with the support of the French military, the Spanish army retaliated via a joint military operation named Ouragan, during which the MLA was heavily defeated (Mercer 1974, 220-224). End of Spanish occupation of Western Sahara and creation of the liberation movement. In 1963, Morocco successfully lobbied to have the United Nations (UN) formally declare Western Sahara a non-self-governing territory and requested Spain to decolonize it in accordance with General Assembly Resolution 1514 (XV) of 14 December 1960 (Rockower, 2002).

Later, in December 1965, the United Nations General Assembly's (UNGA) first resolution associated with this issue, Resolution 2072 (XX) of 17 December 1965 compelled Spain to decolonize Western Sahara and start talks regarding the sovereignty of the territory (Theophilopoulou 2006). In May 1967, to appease criticism, Spain established a Sahrawi General Assembly known as the Djemaa, giving the appearance that the Sahara was moving toward self-determination (Rockower 2002, 8). This assembly comprised several Sahrawi tribes; however, a Sahrawi political organization known as the Saharan Liberation Movement (MLS) was created to counter the Djemaa. Mohamed Sidi Ibrahim Basiri was the leader of the movement.

The new movement grew and members started to gather in peaceful assemblies and publish articles about the decolonization of Spanish Sahara and self-determination of Western Sahara. Frequent protests and assemblies soon developed into massive nationalist propaganda. The UN supported the movement, and in 1967, started demanding that Spain decolonize the territory. As a result of the UN's repeated insistence for a self-determination referendum and desire to decolonize Western Sahara, Spain started changing its colonist politics from the Francoist strategies of control to democratic politics. However, Spain continued to maintain its military bases and protectorate status in Western Sahara.

Throughout the period between 1966 and 1973, the UNGA adopted resolutions on this issue every year (MINURSO 2017) all of which emphasized the need to hold a referendum on self-determination. Furthermore, resistance against the Spanish occupation continued to grow in several ways. A number of Saharawis were motivated by other revolutionary movements in the third world, and started pursuing self-determination, which the UN resolutions highly recommended and urged. The Saharawis then started to organize into various resistance organizations under the backing of interested countries. These groups engaged in various roles at different times during the resistance struggle against the Spanish occupation of Western Sahara. Morocco endorsed the Liberation and Unity Front (FLU), Spain sponsored the Sahrawi National Union Party (PUNS), the Touareg Mouvement Revolutionnaire des Hommes Bleus (MOREHOB) was first backed by Algeria but turned to Morocco in 1975, and the Front for the Liberation of the Seguiet el-Hamra and the Rio de Oro (POLISARIO) were established in 1973 (Harvey 1988, 12-13). All these organizations were overturned or absorbed by other organizations; however, the Polisario became the dominant Sahrawi guerrilla group against Morocco in the Western Sahara conflict.

Initially, the Polisario Front, a liberation group founded on 10 May 1973 by Mustapha Sayed El Ouali, aimed to "opt for revolutionary violence and armed struggle as the means by which the Saharawi population can recover its total liberty and foil the maneuvers of Spanish colonialism" (Hodges 1984, 27). However, the group changed its course of action, delivering an ambiguous statement in favor of full independence of Western Sahara during its second congress in August 1974.

This announcement proclaimed the Saharawi Arab Democratic Republic (SADR) as a government-in-exile in Algeria. The Polisario movement has since received the political, military, and diplomatic backing of the Algerian regime against Morocco.

On 14 November 1975, Spain eventually withdrew from Western Sahara through the Madrid Accords signed jointly with Spain, Mauritania, and Morocco. This accord deferred administration of the territory to Morocco (the northern two-thirds) and Mauritania (the southern third) after a transitional tripartite administration period. Subsequently, in 1976, the SADR, with a government in exile in Algeria, was founded with the aim to establish a sovereign state in Western Sahara. Serious fighting took place between the SADR's national liberation movement, Polisario forces, Mauritania, and Morocco. Consequently, Mauritania signed a ceasefire agreement with the Polisario in August 1975, renouncing its part of Western Sahara. Morocco immediately took control of most of the southern part of the territory formerly occupied by Mauritania.

## UN-LED MEDIATION IN RESOLVING THE WESTERN SAHARIA CONFLICT: GENESIS OF UN INVOLVEMENT IN THE CONFLICT

The UN involvement in the Western Sahara conflict has been on-going for almost 40 years, 24 of them supporting a peacekeeping mission. Under UN auspices, the Western Sahara conflict experienced four different but overlapping phases: statutory, norm setting, crisis management, and conflict resolution. Jacques Rousselier described the four stages and how they were frequently marked by different viewpoints, coded words, puzzlement, and diplomatic opacity (Boukhars and Roussellier 2014, 143-144).

### Statutory: Establishing the Legal Framework of the Conflict

In 1962, Morocco put the issue of Western Sahara, then under Spanish occupation, on the UN agenda. This is why successive resolutions of the UNGA called for negotiations between Morocco and Spain. In 1963, the UN was first requested to view the Western Sahara dispute as an issue pertaining to decolonization processes. This early period is referred to as *statutory* involvement during which the UN defined the legal and institutional structure of the dispute.

In 1965, the UNGA issued a resolution accepting the provisions of a resolution released on 16 October 1964 by the UN "Special Committee on the situation with regard to the Implementation of the Declaration of the Granting of Independence to Colonial Countries and Peoples relating to Ifni and Spanish Sahara". This strongly urged Spain to relinquish these regions from "colonial domination and to this end, to enter into negotiations on the problems relating to sovereignty presented by these two territories" (United Nations General Assembly 1965, Resolution 2072).

A year later, another UNGA resolution included a decolonization call similar to the previous ones, urging "the return of exiles and the free exercise by the indigenous population of its right to self-determination". It also pushed for "the holding of a referendum under United Nations auspices with a view to enabling the indigenous population of the territory to exercise freely its right to self-determination". The resolutions that followed from 1967 to 1974 did not bring new outcomes. However, they reiterated former calls to "take all the necessary steps to ensure that only the indigenous people of the territory participate in the referendum" (United Nations General Assembly 1968, Resolution 2428). Furthermore, the resolutions indirectly called on states to refrain from economic exploitation of the territory and its peoples, including new investment (United Nations General Assembly 1969, Resolution 2591).

In the two-track approach adopted by the UN over the years on its Western Sahara conflict resolution, the decolonization issue and process developed into a historically fixed and ideologically rooted narrative of the dispute. In the 1960s and 1970s, during the postcolonial era, the UNGA envisioned full self-determination as a goal for all peoples subject to "alien subjugation, domination, and exploitation", and intolerable political living conditions it identifies as a denial of a people's fundamental human rights (United General Assembly 1960, Declaration on the Granting of Independence to Colonial Countries and Peoples, UN General Assembly (UNGA) Resolution 1514). This theory of self-determination presumed that the majority of inhabitants in any colony would be free to choose their future political status, although the integrity of established national boundaries would continue to be respected. The Western Sahara territory has a defined indigenous population, and the indigenous inhabitants of the territory have the exclusive right to self-determination and independence. That right can only be achieved through a referendum of self-determination.

### *Normative: Crisis Management Approach*

The UN shifted from laying the foundations of the legal framework of the conflict in the early 1960s and 1970s to crisis management, which was taken over by the Security Council, who proposed options for the resolution of the conflict.

Despite that the Security Council has been engaged with the management of Western Sahara, until now, this conflict continues to be discussed and subject to resolutions by the UNGA Special Political and Decolonization Committee. This clearly violates Article 12 of the UN Charter, which stipulates that while the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the UNGA shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

This two-fold involvement in this crisis laid new and lasting norms for settling the conflict. Noteworthy is that other external and political outcomes also interfered in framing the UN and International Court of Justice implications regarding settling the dispute. In addition, the renewal of Spain's obligation to carry out a referendum under UN auspices to set out the status of the territory led Morocco to protest Spain's methods and activities.

Moroccan endorsement of self-determination was built on a well-grounded assumption that the population of Western Sahara, if given the opportunity, would choose reunification with the Moroccan motherland. The links between Morocco and Western Sahara were considered historically strong and only broken and divided by colonial rule.

Furthermore, after a legal disagreement between Morocco and Mauritania over the status of Western Sahara, Morocco took the initiative and asked the International Court of Justice (ICJ), under the UNGA, for an advisory opinion regarding the legal status of Western Sahara before the colonization of Spain. The ICJ was requested to answer the following two questions: (1) At the time of colonization by Spain, was Western Sahara (Rio de Oro and Sakia El Hamra) a territory belonging to no one (Terra Nelius)? (2) What were the legal ties between this territory and the Kingdom of Morocco and the Mauritanian entity? While the ICJ was investigating the matter, Spain was requested to pause its planned plebiscite to allow the Court time to reach an opinion.

On 16 October 1975, the ICJ submitted its advisory opinion, which unanimously recognized that Rio de Oro and Saguia el-Hamra were not *terra nullius* before their colonization by Spain. The advisory opinion further acknowledged the following:

> At the time of Spanish Colonization, there existed legal ties of allegiance between the Sultan of Morocco and some of the tribes living in the territory of Western Sahara. They equally show the existence of rights, including some rights relating to the land, which constituted legal ties between the Mauritania entity, as understood by the Court, and the territory of Western Sahara (International Court of Justice 1975, Western Sahara: Advisory Opinion).

In diplomatic terms, the ICJ advisory opinion was endorsed as a sharp compromise between the unquestionable right of self-determination and convincing legal ties between Morocco (and Mauritania) and the Western Sahara territory. Thus, despite that the Court's outcome viewed self-determination as an option for the people of the territory of Western Sahara, acknowledging the existence of legal ties between the sultan of Morocco and some of the other tribes living in the territory' gave the incentive to King Hassan II to consider what he claimed regarding Morocco's sovereignty in the region. A few hours after the ICJ's verdict, Hassan II launched the Green March in which 350,000 Moroccans crossed into Western Sahara urging the

Spaniards to withdraw south by several kilometers. The Green March forced Spain to submit a petition to the United Nations Security Council (UNSC) to take actions under Chapter VI of the UN Charter, marking the beginning of its involvement in the Western Sahara dispute.

## Conflict Management

Despite UNSC and UNGA resolutions and recommendations along with pressure from the US calling on Morocco to renounce the Green March, on 6 November 1975, Hassan II went ahead with his plans. The same day, the UNSC submitted a strongly worded resolution that "deplored" the Green March, urging Morocco to "immediately withdraw from the territory of Western Sahara all the participants in the March" (United Nations Security Council 1975, Resolution 380). Spain relinquished administration of the territory to Morocco and Mauritania, and later informed the UNSC that it had ended its presence in Western Sahara. Nevertheless, the transfer of the territory did not change the status of Western Sahara as a non-self-governing territory under UN auspices.

Hence, the ICJ's advisory opinion re-established the framework of a future resolution in many important phases. First, it acknowledged Morocco and Mauritania's historical and legal ties to Western Sahara. Second, it recognized Algeria's role in the conflict. Finally, it extended the scope of the UN's initial identification of the dispute as the right to self-determination and independence. Thus, the ICJ advisory opinion reframed the conflict by altering it in future resolutions from a decolonization matter to a political dispute with defined interested parties, specifically, Morocco, Mauritania, and Algeria.

In 1976, the UNGA took up the Western Sahara issue, acknowledging the role of the Organization of the African Union (OAU), now African Union (AU), in finding a resolution to the dispute. The UNGA supported OAU Resolution 104, in which the organization provided for the first time fundamental reviews of a settlement plan whereby parties interested in the conflict needed to enter into negotiation. It also urged parties involved in the conflict, the Kingdom of Morocco, and the Polisario Front to enter into direct negotiations to bring about a cease-fire to create the necessary conditions for a peaceful and fair referendum for the self-determination of the people of Western Sahara under the auspices of the OAU and UN (United Nations General Assembly 1984, Resolution 39/40). This shift happened because of the failure of Morocco and the Polisario to achieve a political solution. Furthermore, under the auspices of the UNSC and OAU, the UNGA pressured the concerned parties to negotiate, in the shortest possible time and in conformity with resolution AHG/Res. 104 (XIX) and the present resolution, the terms of a cease fire and the modalities for organizing the said referendum (United Nations General Assembly 1985, Resolution

A/RES/40/50). This resolution offered a large mandate for the former United Nations Secretary General (UNSG) Perez De Cuellar to mediate the conflict between the parties, known as the proximity talks that occurred in April 1986.[1]

## CONFLICT RESOLUTION

### *The Settlement Plan: Inescapable Failure*

Taking note of the agreement in principle, the UNSC requested the UNSG to appoint a special representative to work on the issue and report to the council as soon as possible on the holding of a referendum for the self-determination of the people of Western Sahara and on ways and means to ensure the organization and supervision of such a referendum by the United Nations in cooperation with the Organization of the African Unity (United Nations Security Council 1988, Resolution 621).

The UN Settlement Proposals as set in the UNSG's report and accepted by the parties on 30 August 1988 was only seconded after two years by the UNSG's offices (United Nations Security Council 1990, Resolution 658). Perez De Cuellar affirmed the two concerned parties in the conflict, namely Morocco and the Polisario, without mentioning Algeria explicitly, despite that the latter had a role in drafting the implementation plan. Noteworthy is that in the UN; the task force in charge of drafting the implementation plan did not liaise with the UNSG and his close team, who were extensively implicated in the negotiations with parties.

Successive UNGA Resolutions reiterated that the parties enter into direct negotiations and urged them to implement the referendum on self-determination. Many experts claim that the UN Settlement Plan for Western Sahara lacked fundamental agreement on principals and processes for the envisioned self-determination referendum. The plan was supposed to assist the parties in finding a basis of mutual interest regarding voter eligibility and voter lists. In fact, this agreement should have been established before the start of the transition period. According to Jacques Rousselier, the UN Settlement plan faced in particular overt challenges regarding identifying voters for the referendum. This was the cornerstone of the UNSC biannual resolutions, except in 1992, where the council did not take up the question of Western Sahara, and in 1996, when it issued four resolutions taking a supportive stand on the UNSG's efforts to find solutions and compromises on voter eligibility, and calling for the parties full cooperation with the UN Mission on the ground.

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[1] Author's interview with a former Moroccan Ambassador to Morocco in Algeria, April 2014.

The United Nations Mission for the Referendum in Western Sahara (MINURSO) was established by UNSC resolution 690 of 29 April 1991 in accordance with settlement proposals accepted on 30 August 1988 by Morocco and the Polisario Front. The last two resolutions in 1996 included requests by the council to seek "alternative steps in the framework of the Settlement Plan should there be no meaningful progress toward removing obstacles to the implementation of the Plan" (Boukhars and Roussellier 2014, 152-153). Clearly, these puzzling appeals neglect the exploration of alternative ways; however, they address the impasses in the plan and seek solutions within the Settlement Plan system.

On 9 May 1996, the UNSG recommended postponing the work of the UN Mission's Identification Commission and reducing the number of civilian police and military personnel, while paving the way for a solution to voter identification. However, the stalemate on voter identification was noted in the UNSG report, which lead to remain at the full disposal of the parties should they agree to hold talks in whatever format to facilitate a settlement of their conflict (United Nations Security Council 1996, Report of the Secretary General on the situation Concerning Western Sahara). However, many observers overlooked, purposefully or by a lack of understanding, that from the start, a major procedural flaw meant that the Settlement Plan had no chance of being implemented. This weakness, which made the plan unfeasible, is the way Morocco and the Polisario interpreted it, each from their own perspective (Jensen 2005, 22).

Issa Diallo, a special assistant to Perez de Cuellar's task force responsible for producing the details of the Settlement Plan, led separate secret meetings with both Morocco and the Polisario. He did not share the reservations of the concerned parties regarding the Plan with other task force members and the UNSC (Bergh 2007).

This clarifies both parties' vehement opposition to and apparent frustrations with the many paragraphs contained in the draft plan. With the appointment of the former US Secretary of State James A. Baker III as the UNSG's personal envoy for Western Sahara, he resumed the voter identification process in December 1997. He developed a resolution for disputed issues (code of conduct for the referendum campaign; confinement of Polisario troops; and a decrease in the number of Moroccan troops, refugees, prisoners of war, and political prisoners) under the Houston Agreements adopted in September 1997. After several attempts to resume the implementation of the Settlement Plan, the Secretary General and his personal envoy concluded three critical observations. Regarding the issue of the voter identification process, it concluded that after nine years of UN operations in Western Sahara, throughout the identification process, the cooperation of one or the other party with MINURSO has been predicated upon its perception of how the results might be favoring the other side. As per the appeals, it deduced that the respective positions of the two parties do not augur well for an early resolution of the issue of admissibility of appeals for hearings. Under these circumstances, the timetable envisaged is no longer

valid, and the date of the referendum, which has been repeatedly postponed since 1991, can still not be set with certainty at this juncture. Finally, the report noted, the experience has shown that each time the United Nations has proposed a technical solution to bridge the parties differing interpretation of a given provision of the settlement plan, a new difficulty, requiring yet another round of protracted consultations, arises (United Nations Security Council 2000, Report of the Secretary General on the Situation Concerning Western Sahara).

On that account, the UN envoy on Western Sahara held four meetings to consider the call of the international community to settle this issue. Based on the outcomes of these meetings, Baker thought, it is much better to reach a political solution than seeing the process collapse, as this could lead to the resumption of hostilities, which must be avoided at any cost (Cuéllar 1997, 352).

To summarize, the way in which the Settlement Plan was adopted reveals that the principal intent of the UN was to reach an agreement, as early as possible, between the protagonists and call off the war, not advance a viable proposal that could materialize on the ground.

Since the adoption of the UN Settlement Plan in 1991, the UN has for more than a decade focused on achieving a solution to the territorial question, which pits Morocco against the Algerian-backed Polisario, by means of a referendum with the option of independence among the envisaged outcomes.

In his memoirs entitled *Pilgrimage for Peace*, Perez de Cuellar was convinced that the Settlement Plan could not address all the concerns of the two parties and that a compromise solution had to be sought. He declared: "I was never convinced that independence promised the best future for the inhabitants of Western Sahara".[2]

## The Framework Agreement

In September 2000, Morocco proposed a new solution to the dispute to the Polisario Front, which was not aligned with the Settlement Plan. Morocco`s platform of negotiation was its plan to grant autonomy to Western Sahara; however, this initiative did not go further. This led James Baker to share with the UNSC the draft Framework Agreement on the status of Western Sahara, which was presented to the parties.

The agreement provided a five-year period of autonomy followed by a referendum on the status of the territory. The Polisario and its regional backer Algeria rejected the draft Framework Agreement, as they perceived it as yielding to Morocco's inspirations while providing too little to their own claims.

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[2] Author's interview with Anna Theophilopoulou, Former UN official, New York, 2014.

Baker presented the draft Framework Agreement in a revised form as the Peace Plan for Self-Determination of the People of Western Sahara in 2003, which entailed a powerful endorsement from the UNSC. The plan offered a referendum on the final status of the territory for the population of Western Sahara and included independence, integration with Morocco, and self-governance or autonomy. Despite that Algeria submitted a detailed criticism in writing of the draft in response, it accepted the plan and pushed the Polisario to do so as well (Jensen 2005, 111).

Morocco rejected the plan, arguing that Baker's new proposal was aligned with the failed Settlement Plan, reintroducing the holding of the referendum that would provide the concerned parties with the initial options. Actually, this plan did not consider the sociological, tribal, and ethnic composition of the population of Western Sahara, as well as the need for the genuine adhesion of all populations to the status given to them.

After Morocco`s official rejection of the plan, the UNSG's Personal Envoy James Baker resigned, resulting in a sudden end to UN and US mediation efforts. After a two-year gap, the Secretary General appointed Peter van Walsum to the post in 2006. Morocco decided to reinvigorate its autonomy plan for Western Sahara on 11 April 2007.

## Autonomy Plan

Van Walsum was appointed as the next UNSG envoy on Western Sahara. While Morocco presented its Autonomy plan for Western Sahara on 11 April 2007, the Polisario presented its own proposal, namely to re-launch the discussion on holding the referendum that would offer a choice between independence, autonomy, or integration into Morocco. The proposed autonomy plan presented by Morocco asserted that it was based on internationally recognized norms and standards, and detailed the proposed powers of the Sahara autonomous region, the bodies of the region, and modalities for approval by the population concerned with the statute (Agence France Presse, 2007). Through US Undersecretary of State Nicholas Burns, the US quickly welcomed the proposal, characterizing it as "serious and credible" (ElPais 2008).

The Moroccan initiative was not a decisive solution, but provided a platform of negotiation. Following this development, the UNSC decided to drop the 50-year campaign for a referendum and urged the parties to engage in direct talks in good faith and without preconditions' for a political solution. During the four talks held in Manhasset, New York in 2007 and 2008 under Van Walsum, the Polisario refused to discuss and consider autonomy or anything but independence. The new envoy made no progress in bridging the disagreement between Morocco's autonomy plan and the Polisario's position that a referendum on independence must be an option. In 2008, Van Walsum briefed the UNSC that the Polisario hoped for independence, which was unrealistic; thus, coming to terms with reality would be in the Saharans' best interest

(Security Council Report, 2014 Mandate extension of the MINURSO). After this remark, the Polisario stopped dealing with him. For them, he remained a *persona non grata* until his contract ended. Christopher Ross, former US diplomat in Algeria, was appointed as Personal Envoy in 2009. From 2009 to 2016, Ross conducted 10 informal rounds of negotiations, which led to no progress given the fundamental differences between the parties' positions. None were willing to concede to a compromise. Furthermore, during Mr. Ross' appointment, several miscalculations by the UN secretariat under Ross and UNSG Ban Ki Moon impeded the negotiation process.

In 2013 at the renewal of the MINURSO Mandate, Susan Rice, former US ambassador to the UN, introduced a broader mandate for the UN peacekeeping mission to monitor and report on the human rights situation in Western Sahara. This proposal was endorsed by several humanitarian organizations in the US, and severely criticized by Morocco. In addition, the MINURSO mission is the only one that does not have the power to monitor human rights. At least 5 of the 12 UN missions do not have the power to monitor human rights. Furthermore, Morocco embarked on improving its human rights in 2011 through the creation of regional human rights committees in Western Sahara to monitor and address the situation in the region under the authority of the National Council for Human Rights. This initiative was praised by the UNSC in resolutions No. 1979 and No. 2044 (Stone Walling on Refugees Rights, 2009). The UNSC soon withdrew the proposal to enlarge the mandate of the MINURSO.

A few years later, the UNSG's Personal Envoy started pushing for another alternative solution to the conflict. He indirectly shunned Morocco's proposal, proposing a federation or commonwealth between Morocco and Western Sahara. The UN again failed to consider that this new proposal did not take into account the specifics of the Western Sahara region. Rather, it incorrectly compared the region with foreign countries that applied the system of commonwealth and federation, namely the US and the UK. Moreover, with the continuous impasse at the level of the UN to find a solution, Morocco unequivocally decided to not step back on the proposed autonomy plan, and dismissed any negotiations that would lead to independence.

In the same years as Christopher Ross' tenure, UNSG Ban Ki Moon made an undiplomatic move during his visit to Tindouf Camp in Algeria in March 2016. Following his meetings with Algerian officials and the Polisario leaders, Ban Ki moon expressed his endorsement of the Polisario, and intentionally described Morocco as an occupier of Western Sahara. His controversial comments about the 'occupation' of Western Sahara generated a great deal of pushback from a broad spectrum of Moroccan circles—from the government's decision to cut the number of staffers and funding at the UN mission in the Sahara to global protests in different parts of the world. Currently, with the appointment of the new UNSG Antonio Guterres and the new UNSG, bringing the parties back to the negotiating table raises questions about the utility and promise of international mediation in the long-standing conflict in North Africa.

## ALGERIA AS AN IMPORTANT PARTY IN SOLVING THE PROBLEM

Since Morocco's reintegration of Western Sahara, Algeria has contested the move and in retaliation, began supporting the Polisario militarily, diplomatically, and financially. The Algerian Republic was determined that by challenging Morocco's claim to Western Sahara, it would prevent it from strengthening and enriching its position in North Africa, paving the way for Algeria to become the pre-eminent power in the region. While Algeria has never claimed its interest in the Saharan conflict, it has *de facto* been a major player therein. Since then, geopolitical rivalry ensued from Algeria, which sought dominance over the Maghreb.

In addition, ideological differences have also played a role. Monarchical, capitalist, conservative, and pro-Western Morocco contrasts sharply with the revolutionary, former single party, socialist, and anti-Western Algeria. In the UN, Algeria was deeply involved in helping the Polisario achieve the independence of Western Sahara through self-determination based on holding the referendum. This started with the second Algerian President, Houari Boumedienne, who was staunchly in favor of Saharan self-determination. His agreement to provide the Polisario with weapons, political support, sanctuary, and information facilities caused continued intermittent tensions in Moroccan-Algerian relations. Algeria's efforts in the Western Sahara conflict, especially at the level of the UN, are comparable to those of an involved party such as Morocco. These efforts include Algeria's input in the draft of the Framework Agreement, its push to incorporate human rights duties in MINURSO's duties, quest for independence of Western Sahara, and refusal to deal with an appointed UNSG personal envoy who endorses Morocco's efforts to reach a just and lasting political solution to this conflict, as in the cases of De Soto and Van Walsum. In its official communication to the UN, Algeria sometimes presented itself as "a concerned party" and an "important actor" or "party in the settlement of the dispute".

Another component impeding the resolution of this dispute is Algeria`s systematic refusal to allow the High Commissioner of Refugees (UNHCR) to conduct an independent census to determine the number of Sahraoui living in the Tindouf Camps. The international community is pushing for an independent census to determine the number of Sahrawi refugees living in Algeria, but the effort is meeting considerable resistance. For more than 40 years, the UN has not succeeded in stopping Algeria from refusing requests from the UNHCR to fulfill its mandate and conduct a census of the Sahraoui population in Tindouf Camps in Southwest Algeria.

While Algeria's unjustified rejection can be easily considered in the context of its tense relations with Morocco and need to have the Sahraoui on its soil for its political propaganda, the refusal of the Polisario leaders is essentially driven by the profit they gain from an excessive estimation of the number of refugees by requesting more humanitarian aid.

Several reports published by UN agencies such as the UNHCR and World Food Programme highlight Algeria and the Polisario's embezzlement of the humanitarian aid intended for the Sahraoui population in Tindouf. For Morocco, the solution of this conflict arises from a genuine contribution of the Algerian regime that must show the necessary political will to break the deadlock over the process.

## CONCLUSION

For more than 40 years, the UN has attempted to settle the Western Sahara dispute, balancing the concerns of two main party goals: autonomy/sovereignty and self-determination. The status quo is the result of an unusually substantial and consistent set of factors. First, interest in this dispute is small, and insufficient international attention is given to the conflict, despite the continuing major threats of terrorism developments and spike in instability and insecurity in the Sahel and neighboring regions, where links between Al-Qaeda in the Islamic Maghreb (AQIM) and the Polisario Front have been revealed. Second, the persistence of the intermittent historical tensions between Algeria and Morocco as well as Algeria's lack of genuine commitment to resolving this dispute seriously hinders its resolution. Finally, the international community is unable to genuinely contribute to a solution, because there simply is no international interest in the conflict. In the UN, the lack of political momentum reveals the divergence of intentions between states in the UNSC or UNGA, or the upcoming rounds of negotiations. The conflict tested James Barker's imagination and patience from 1997 to 2004, and he proposed a referendum that did not lead anywhere. His successor as the UNSG's Personal Envoy to Western Sahara, Peter Van Walsum, resigned after three years, because he believed that independence was not a viable solution. Christopher Ross, who after several meetings to discuss new proposals from the parties in 2007, did not succeed in making progress on the issue, replaced him.

In September 2018, the new UNSG Personal Envoy to Western Sahara, Horst Kohler, invited Morocco, Algeria, Mauritania, and the Polisario Front to re-launch negotiations in Geneva on 4 and 5 December,2018 with a new dynamic and spirit. With the new appointment of the UN chief in January 2017, Antonio Guterres, there is a need to implement a realistic vision to end this conflict. It is important to learn from the approaches of former UN diplomats, which did not lead Western Sahara to a major political solution, and from the stubbornness of the UNSC to pander to unfeasible mechanisms such as self-determination leading to independence.

The latter instance, which when applied through the UN to some conflict zones such as in South Sudan, brought chaos and instability to the citizens. Finally, the UN's mediation role in this conflict should be redefined in light of current developments in the region, as well as the threats of refugee Tindouf camps on the stability and security of the region and Algeria's full-fledged role in the conflict.

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